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District of Columbia Office of Planning



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Matt Jesick, Case Manager
Joel Lawson, Associate Director Development Review

DATE: March 4, 2014

SUBJECT: BZA #18723 – 2105 10th Street, NW

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18723

EXHIBIT NO. 33

I. RECOMMENDATION

With regard to this proposal to construct a mixed use residential building, the Office of Planning (OP) recommends **approval** of the following relief

- § 774 Rear Yard (15 feet required; 5 and 0 feet proposed).

OP **cannot recommend approval** of the following areas of relief

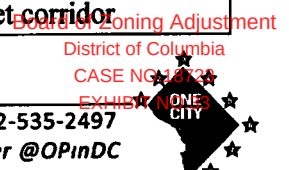
- § 772 Lot Occupancy (80% maximum, 90% proposed),
- § 770 6(b) Rooftop Structures (1 to 1 setback required, Zero setback provided at court wall)

OP **cannot make a recommendation** about the following relief until the Public Space Committee evaluates the public space design

- § 2116 12 Parking Location (No structured parking within 20 feet of lot line abutting a street, Proposed partially above-grade structured parking abutting V and 10th Streets)

II. LOCATION AND SITE DESCRIPTION

Address	2105 10 th Street, NW
Legal Description	Square 358, Lots 5, 6, 802
Ward and ANC	1, 1B
Lot Characteristics	Flat property
Zoning	C-2-B / ARTS
Existing Development	Historic church building to remain on the northwest corner of the property First African New Church, built 1896
Historic District	No historic district, Church building is a landmark
Adjacent Properties	North – Four story condo building South – Former Garnet-Patterson Middle School East – Low-rise commercial buildings West – Rowhouse residential
Surrounding Neighborhood Character	Primarily rowhouse neighborhood to the northwest; some apartment buildings in the vicinity; commercial along the U Street corridor



III. APPLICATION IN BRIEF

The applicant proposes construction of a mixed use building at the corner of 10th and V Streets, NW. The building would have a total of 46 residential units – 4 in an historic landmarked church on the site, and 42 in a new addition to the church. The building would also have approximately 3,210 square feet of retail or commercial space on the ground floor – 1,232 square feet in the church and 1,978 square feet in the newly constructed portion of the building. Access to the uses in the church portion of the building would continue to be primarily through the main entrance of the church on 10th Street, while the uses in the new part of the building would have access from V Street. A doorway connection between the commercial spaces results in the two structures – the church and the new addition – being considered one building for zoning purposes. Partially-underground parking would be accessed from the 10-foot alley on the north side of the building. No loading is provided on-site. The building would be 70 feet and six stories tall with approximately 47,800 square feet of total floor area. In order to develop as proposed, the application requires lot occupancy, rear yard, rooftop structure and parking relief.

IV. ZONING REQUIREMENTS AND REQUESTED RELIEF

C-2-B / ARTS	Regulation	Existing	Proposed	Relief
Height (ft.) § 770	70 ft.	53.73'	70'	Conforming
Lot Area (sf)	n/a	9,563 sf	No change	n/a
Floor Area Ratio § 771	5.0	0.58	5.0	Conforming
Lot Occupancy § 772	80% (7,650 sf)	18% (1,721 sf)	90% (8,607 sf)	Requested
Rear Yard (ft.) § 774	15'	5' (below 20' in ht., measured to CL of alley) 0' (above 20' in ht.)	No change	Requested
Side Yard (ft.) § 775	None required	Not provided	None	Conforming
Rooftop Structures §770.6	1 to 1 setback	n/a	No setback from court wall	Required
Parking § 2101	1 space per 3 units (historic building exempt) (42 units = 14 spaces)	0	19	Conforming
Parking § 2116.12	Parking must be more than 20' away from lot lines fronting a public street	n/a	No setback along 10 th and V Streets	Requested

V. ANALYSIS

Variance Analysis

The design would require variances from lot occupancy, rear yard and parking location requirements. In order to be granted a variance, the applicant must show that they meet the three part test described in § 3103.

1. **Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?**

The property exhibits exceptional conditions. The site contains a landmarked building, the historic church, which cannot be demolished or moved. That building and the adjacent building to the east of the property have, according to the applicant, very shallow foundations that are structurally precarious and would be difficult to underpin. The applicant also states in the application that the soil conditions are such that deeper than normal foundations would be needed to support the new construction, and that the soil makeup “exacerbate[s] the condition of the foundation of the abutting buildings” (February 13, 2014 Written Statement, Section V A). Another exceptional condition is the location of the church, which is immediately adjacent to the alley with no setback.

2. **Does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?**

Lot Occupancy

The exceptional conditions affecting this property do not create a practical difficulty for the applicant in regard to lot occupancy. The application materials cite the inability to accommodate density as a driving factor for requesting the lot occupancy variance. However, the FAR allowed on the site is not guaranteed; It is only a potential density that can be constrained by the remaining provisions of the Zoning Regulations and other site conditions. The property contains an historic church but is otherwise empty, and there is no reason why a building cannot be designed that conforms to lot occupancy requirements. In fact, the design previously approved by the BZA in 2005 did not request lot occupancy relief, indicating that a residential building could be built with the church in place and still meet the 80% lot occupancy maximum.

The application materials submitted on February 25 suggest that a conforming lot occupancy would create awkward unit layouts and a less efficient core and circulation. These factors have not been quantified except to say that units would be lost, which is the expected outcome of a conforming lot occupancy compared to a non-conforming lot occupancy. It is also not clear why the schematic layout showing a conforming lot occupancy (no sheet number in the plan set) claims there is “dead space” behind the core. That space could be used for a den, bathroom or kitchen, or a bedroom on upper floors.

Rear Yard

The exceptional conditions combine to form a practical difficulty for the applicant. The church abuts the alley and cannot be moved. The alley is at the rear of the property and the resulting rear yard, therefore, is five feet (measured to the centerline of the alley) up to a height of 20 feet, and zero feet (measured to the property line) above 20 feet to the top of the church. Demolishing or moving the church is not possible, so any building scenario with new construction facing V Street would have a zero-foot rear yard.

Parking Location

The exceptional conditions combine to form a practical difficulty for the applicant. The soil conditions and the conditions of the abutting buildings' foundations make digging deep for a completely underground garage, and the resulting underpinning of adjacent buildings, more difficult than in typical construction scenarios. The applicant should submit for the record any reports quantifying the impacts that the soils and existing buildings would have on underpinning for a deeper excavation versus underpinning for the proposed excavation.

The compromise design would result in a partially sunken parking level extending no more than four feet above the adjacent grade. Because the parking would be partially above grade, it would require relief from the zoning provision prohibiting above-grade parking within 20 feet of the property line.

3. **Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

Lot Occupancy

Relief to lot occupancy could negatively impact the public good and the intent of the regulations. Exceeding the lot occupancy could reduce the amount of light and air available to adjacent properties, especially at the northeast corner of the site where the new construction would extend behind the church. The regulations intend to provide guidance for the orderly arrangement of buildings and comfortable living environments for residents in the form of light and air availability, as well as predictability for nearby property owners. A variance to lot occupancy could impair those intentions.

Rear Yard

Maintaining the existing building configuration by leaving the church in place would not impair the public good or the intent of the Regulations. The church has existed in that location for well over 100 years and its location next to the alley is consistent with the neighborhood context. The regulations intend rear yards to provide adequate space between buildings for light, air and privacy. But in this case, next to an alley, there should be no substantial impacts to those qualities. The condo building to the north already has windows facing the church, and the

amount of light and air they receive would not change. The applicant would not create any new windows in the church.

Parking Location

Making the parking only partially underground could potentially have a negative effect on the public good and the intent of the Regulations. The Regulations intend to create a vibrant streetscape where the private space of buildings engages the public space of the street. This is best accomplished when retail uses are at grade, which was the intent behind the parking regulation in question. As proposed, the ground floor is raised four feet above the adjacent sidewalk, somewhat removing it from its relationship to the street and making the street less active.

Public space issues are not normally relevant to BZA discussions, but in this case the results of the public space review process might impact the design of the building and impact what zoning relief is necessary. Although at-grade retail would be ideal, the current public space design could provide a tolerable transition between the building and the street. However, as presently proposed, the design would not meet the public space regulations, which govern changes in grade and building projections to maintain an open feeling and consistent treatment of the street right-of-way. These aspects of the project will be discussed during a review by the Public Space Committee, whose decision could bring about significant changes to the design of the building itself, potentially requiring the applicant to return to the BZA for new or altered zoning relief. The Office of Planning, therefore, cannot make a recommendation on this area of relief until the Public Space Committee has reviewed the project.

Special Exception Analysis

The proposed stair tower on the 6th floor roof does not meet, from the wall of the courtyard, the one-to-one setback requirement for rooftop structures. The Board may grant, pursuant to § 411.11, special exception setback relief. Section 411.11 lists the following criteria:

- 1. Meeting the requirement would be impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly or unreasonable.**

The location of the church pre-determines the location of a court on the site, and results in more limited areas where the new building core and resulting rooftop penthouses could be located. If the church were not present, the applicant would have more design freedom to locate courtyards such that they do not come near the core and rooftop structures. The application states that "In order to create as efficient a core and circulation as possible, these elements have been shifted to the rear of the new construction..." (February 24 Written Statement, p. 12). It is unclear, however, how the location of the core makes it more efficient. The applicant should provide more evidence of this, and should also examine core locations that would not require setback.

relief, such as along the eastern property boundary. The applicant could also study whether, even in the current location, some small setback could be created.

- 2. The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.**

Granting relief to the rooftop structure setback from interior courtyard walls would not impact the light and air available to the proposed structure or to nearby buildings. Relief could, however, impair the intent of the Regulations, which seek to minimize the appearance of rooftop structures. The application states that “the stair tower is invisible from the surrounding streets” (ibid.), but an examination of the property indicates that the proposed penthouse could be quite visible from 10th Street, overlooking the church. The applicant should provide visual studies from several ground-level angles to show the visibility of the proposed structure.

VI. HISTORIC PRESERVATION

The subject site is not located in an historic district, but because the church is an historic landmark, the addition is under review by the Historic Preservation Office (HPO) staff. As of this writing the project is scheduled to go before the Historic Preservation Review Board (HPRB) on March 6th. Conversations with HPO staff indicate that the 2006 deliberation and approval by the HPRB focused largely on the relationship of the massing of the addition to the historic church, and that that discussion resulted in a design with much greater upper-level setbacks and no new construction immediately behind the church. In regard to the current proposal, staff indicated that the HPRB would closely examine the massing of both wings of the addition, including the six story portion east of the church, the location of the stair tower overlooking the church, and the setbacks at the upper levels of the 10th Street façade. Design discussions with the HPRB could result in fewer areas of zoning relief for the project.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

OP is not aware of written comments from any other District agency at this time. OP staff have discussed the issue of public space design with the applicant, and, as currently proposed, the project would need to go before the Public Space Committee for approval. Public space issues are not normally relevant to BZA discussions, but in this case the results of the public space review might impact the design of the building. OP suggested to the applicant that they request that this BZA hearing be postponed until after the Public Space Committee and HPRB reviews are complete.

VIII. COMMUNITY COMMENTS

OP is in receipt of the ANC letter dated February 13, 2014 which states that ANC 1B supports the application for relief from rear yard and lot occupancy. The applicant has also submitted to the record a number of letters in support of the application.