

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

Application of New Southern Rock Baptist Church

**APPLICANT'S PRE-HEARING STATEMENT
March 2014**

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This Pre-Hearing Statement ("Statement") outlines the existing and proposed use of the property and the manner in which the application ("Application") complies with the specific tests and burden of proof for the special exception sought in this application before the Board of Zoning Adjustment (BZA)

NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR § 3104.1 for a special exception under § 216.1 to allow the use and occupancy of the property of application for purposes of church programs conducted by a church congregation, subject to the provisions set forth in §§ 216.2 through 216.7. Further, to the extent that the Board interprets § 216.3 to require that the church program conducted on the property be carried on within the church building, that is on the same premises as the existing church, the applicant also requests a variance pursuant to § 3103.2 to allow the program to be carried out within a building located elsewhere other than the church building

SUMMARY OF APPLICATION

The applicant seeks special exception pursuant to 11 DCMR § 3104.1 to allow, under § 216.1, the use of the subject property, the church annex, for purposes of church programs which are in furtherance of the church outreach ministry, including but not limited to clothes distribution, point of departure for delivery of lunches for and to homeless shelter residents, men's ministry, monthly meetings of the Church Board of Trustees, after school care computer programs for neighborhood and church members' children, et cetera.

For purposes of an overabundance of caution, the applicant also seeks an area variance pursuant to § 3103.2 from the provision set forth under § 216.3 to the effect that.... "the church programs conducted on the property shall be carried on within the existing church building(s) or structure(s)" because the church annex within which the church programs will be carried on is located across the street from the church building.

**BOARD OF ZONING ADJUSTMENT
District of Columbia**

CASE NO. 18766
EXHIBIT NO. 4

Board of Zoning Adjustment
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The New Southern Rock Baptist Church is located at 750 Buchanan Street, NW, whereas the subject property, which is owned by the church and therefore a church building, is located on 8th Street NW.

The New Southern Rock Baptist Church occupies the entire triangular square bounded on the north by Buchanan Street, on the west by 8th Street, on the east by Kansas Avenue, and Allison Street to the south. This location has been the home of the church for over fifty-four (54) years since prior to May 12, 1958. 4510 8th Street is located on the west side of 8th Street, across from the church, between Allison and Buchanan Streets.

New Southern Rock Baptist Church has owned and used the subject property as a church annex for over twenty years, unaware that a certificate of occupancy is required for the purpose for which it is before the Board to legitimize. In that regard the use of subject premises for the church programs purposes described herein has coexisted with neighboring use without substantial adverse impact given the low intensity of use as shall be further documented and testified to in the course of the hearing. All church programs shall be carried on within the existing church annex building, and none of the church program activities is contemplated to be conducted outside of the building.

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JURISDICTION OF THE BOARD

The application is properly before the BZA. The Board is authorized to grant the requested special exception under § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (2) (2001), as further set forth in 11 DCMR § 3104.1

PROPERTY LOCATION AND DESCRIPTION

The subject property is located in the 14th Street Heights neighborhood at 4510 8th Street, N.W. in (Square 3017 Lot 0033) (the "Property" or "Subject Property"). The Subject Property is an interior lot, located on the west side of 8th Street and is improved by a detached structure

The Subject Property is approximately three thousand nine hundred and one square feet (3,901 ft²) in lot area, and is rectangular in shape. The subject property is located within a square which is traversed by an alley system which discharges into Buchanan Street to the north boundary of the square, 8th Street on its east and 9th Street to its west. One of the alleys abuts the subject property at its rear property lot line, which at fifteen feet (15 ft.) provides the necessary access to allow the location of at least four (4) parking spaces at the rear of the subject property.

The immediate neighborhood or vicinity consists of a mix of residential type structures including row dwellings, semi-detached and detached one-family dwellings, including institutional uses such as the church and a public charter school

The Subject Property is an interior lot and has vehicular access from the rear, via a network of public alleys as aforementioned in this statement. The property is located

within the R-3 zone district, which permits all types of one-family structures, churches, Sunday school buildings, public and public charter schools

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

The Applicant seeks special exception relief pursuant to the Zoning Regulations, 11 DCMR §§ 3104.1 and 216.1 to specifically allow the existing building to be used and occupied for purposes of church programs use.

The Applicant, by preponderance of the materials submitted with this Application, facts to be presented in the course of the public hearing and further evidence to submitted fourteen days prior to the hearing date, will prove compliance with the applicable conditions set forth in §§ 216.2 through 216.7 for approval of the relief sought, as further outlined below.

The Board is authorized to grant a special exception, in excerpt, where in its judgment, the relief will be in..... “harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring properties.....”

The application’s compliance with the conditions for approval set forth under § 216.2 through 216.7 are as follows:

216.2 *The church program shall not be organized for profit, but shall be organized exclusively for the promotion of the social welfare of the community.*

As aforementioned, the proposed church programs are in furtherance of the church outreach ministries, are not organized for profit and are organized for the promotion of the social welfare of the community. Church officers will testify that church outreach ministries entail and include a monthly clothes distribution drive which occurs on a Saturday, from 10:00 AM to 2:00 PM for an approximate window of four (4) hours; a quarterly point of departure for the distribution of box lunches for homeless shelter residents offsite; after school computer classes for community children, including such incidental purposes as monthly meetings of the church Trustees of the Board and men ministry

216.3 *The part of the church program conducted on the property shall be carried on within the existing church building(s) or structure(s).*

All parts of the proposed church program conducted on the subject property are intended to be carried on within the existing building. In deference to an overabundance of caution and the Board’s discretion, the applicant requests a variance from this provision in the event that the Boards interprets this section to mean that church programs shall be conducted within and upon church premises only, notwithstanding that applicant believes to the contrary. The subject property is a church-owned, therefore a “church building”

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notwithstanding that it is separated from the main church building by 8th Street, on premises directly opposite the main church building.

Applicant however outlined below in this statement how this specific request complies with the burden of proof necessary for the granting of the variance sought.

216.4 *The staff conducting the program shall be composed of persons, at least seventy-five percent (75%) of whom volunteer their time and services.*

The applicant will testify that not less than seventy five percent of the staff conducting the church program will be composed of persons/church staff who volunteers their time and services.

216.5 *The operation of the program shall be such that it is not likely to become objectionable in the Residence District because of noise and traffic.*

The operation of the program is not likely to become objectionable because of noise and traffic. As aforementioned, the church has operated the program within the subject premises for over twenty years, albeit without a certificate of occupancy without adverse impact of noise and traffic because of the low intensity nature of the activities and their limited recurrent schedules.

The church programs include two outreach ministry programs one of which involves clothes distribution which takes place only quarterly (once every three months) for a window of four (4) hours from 10:00 AM to 2:00 PM; the other the use of subject premises as a point of departure only for the distribution of lunch boxes to the residents of homeless shelters offsite. The men's ministry occurs every fourth Saturday of the month in the afternoon, whereas the monthly meeting of the Board of Trustees the first Monday of every month 7:00 PM to 9:00 PM.

While the subject property has the capacity and proposes to provide four (4) parking spaces on premise, the preponderance of church overflow parking needs, including for the use of special events, are accommodated offsite on the premises of the E.L. Haynes Public Charter School (see attached letter of agreement), which is located across the street from the church promises at 4501 Kansas Avenue NW. The school campus offers ample off street parking space such that potential adverse impact on the neighboring Residence District becomes non-existent or substantially mitigated.

216.6 *No signs or display indicating the location of the church program shall be located on the outside of the building or the grounds.*

The applicant does not propose to display any signs indicating the location of the church program on the outside of the building or the grounds.

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216.7 *Any authorization by the Board shall be limited to a period of three (3) years, but may be renewed at the discretion of the Board.*

The applicant has no objection to the prescribed limitation.

**STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF FOR
VARIANCE**

The Applicant, by preponderance of the materials submitted with this Application, facts to be presented in the course of the public hearing, and further evidence to be submitted fifteen days prior to the hearing date, will prove compliance with the three prong test necessary for the granting of the area variance sought, as outlined further below.

The Board is authorized to grant an area variance where a property demonstrates three characteristic elements:

1. The subject property must demonstrate a unique physical characteristic of shape or size, exceptional narrowness or shallowness which existed as of the time of the original adoption of the Zoning Regulations, or that there exists exceptional topographical conditions or other extraordinary or exceptional situation or condition of property;
2. That the physical characteristic(s), or extraordinary or exceptional situation or condition of the property makes the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties to the owner of the property;
3. That the Board is able to grant the variance without substantial detriment to the public good and without substantial impairment of the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

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EXTRAORDINARY OR EXCEPTIONAL SITUATION OR CONDITION OF PROPERTY

The extraordinary or exceptional situation or condition of property suffered by the subject property under the circumstances is that the opportunity to be located on the same premises as the church main building was already foreclosed as of May 12, 1958 because the church premises, which is located across the street (8th Street), occupies solely the entirety of Square 3140 without room for a second structure or an addition to the main church building. Further 3140 is both a through square and lot, given that it abuts a dedicated street on all its boundaries or perimeter.

PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY

To the extent that the Board interprets § 216.3 to require that the church building or structure be located on the same premises as the main church building, the peculiar and practical difficulties to the owner of the subject property is the fact that the opportunity to co-locate on the premises of the main church building was already foreclosed as of May 12, 1958, since the church premises encompassed the entirety of the square and the improvement upon that property was of such size that the location of another structure, including an addition to the existing building was impossible.

The church representatives will testify that the church congregation has grown over the years such that the church main building capacity can no longer, and has not been able to for a long time, accommodate all church activities, including its incidental administrative and church ministry needs.

SUBSTANTIAL DETRIMENT TO PUBLIC GOOD AND SUBSTANTIAL IMPAIRMENT OF INTENT, PURPOSE AND INTEGRITY OF THE ZONE PLAN

The Board is able to grant the relief sought without substantial detriment to the public good and without substantial impairment of the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map because inherently the Zoning Regulations deem church programs use not incompatible with other permitted uses in a Residence District since it is allowed by special exception, provided that potential objectionable and adverse impact is not substantial or can be substantially mitigated.

The applicant has been using the subject premises for the same purposes that it now seeks Board approval for twenty years without any incident and/or complaint from the immediate neighbors, nor have neighboring properties been unduly impacted.

The applicant will provide four (4) parking spaces at the rear of the subject property, which is served by an adequate network of public alleys, but more importantly deflects

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any traffic impact away from the subject property by providing off-street parking on the premises of the E. L. Haynes Public Charter School.

All proposed activities of the church programs are of a low intensity nature given the recurrence and limited occurrence after hours and on weekends.

WITNESS

The following witness will testify in support of the Application:

1. Rev. Dr. Rudolph White
2. Deacon Robert Wilcox
3. Walter Young
4. George Boyle

CONCLUSION

The Applicant submits that the instant application complies with all conditions for the granting of the requested special exception set forth in § 216.1 as outlined above and as shall be further documented in testimony at the hearing, and respectfully requests that application be granted.

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