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May 30, 2014

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

**Re: Application No. 18780 – 2709 N Street NW (Square 1236, Lot 803)
Amended Application**

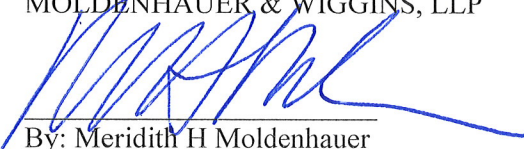
Chairman Lloyd Jordan and Honorable Members of the Board:

On behalf of Applicant 2709 N Street, LLC, enclosed please find an amendment to the above-referenced application. The Applicant initially filed area variance relief to allow conversion of a historic church into two single-family homes in conjunction with a subdivision. Based on a response from the Historic Preservation Office and Commission of Fine Arts, the Applicant has been discouraged from subdividing the Property and thus submits this amendment. Without subdivision, the Property will be converted to a three-unit apartment in the R-3 District and therefore require use variance relief under §320.

Due to this amendment we request a continuance of the case until July to provide all parties time to review. Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP



By: Meridith H Moldenhauer

Enclosures:

Cc: Advisory Neighborhood Commission 2E
c/o Ron Lewis, Chair (via email)
Single Member District Representative 2E06, Tom Birch (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
2709 N STREET, LLC**

**2709 N STREET NW
ANC 2E**

AMENDMENT TO THE APPLICANT'S STATEMENT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of 2709 N Street, LLC (the "Applicant"), the contract purchaser of property located at 2709 N Street NW (Square 1236, Lot 803)(the "Property") in support of its application for a use variances under 320.3 to allow the Applicant to convert a historic church into a three-unit dwelling in the R-3 District at the Property.

II. JURISDICTION OF THE BOARD

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

III. EXHIBITS

Exhibit A:	Revised Architectural Plans as Submitted to the Commission of Fine Arts
Exhibit B:	Revised Form 135
Exhibit C:	Correspondence with the Historic Preservation Office

IV. BACKGROUND

A. Background Information Regarding the Property

The Property contains approximately 5,015 square feet of land area and is located in Northwest Washington, D.C. The Property has approximately 42 feet of frontage along N Street NW and is within the R-3 District. The Property is improved with the Alexander Memorial Baptist Church. The Property is located within the Georgetown Historic District and is listed on the DC Inventory of Historic Sites.

Also in the transaction regarding Lot 803 and the church, the Applicant purchased adjacent lots 804 and 805. Lot 804 and the historic rectory on that parcel will be preserved and converted to a single-family home as a matter of right. Lot 804 will be subdivided, moving the lot line on the western portion of the lot up to the existing rectory. Thus, the side yard will be removed and the rectory will become a compliant attached rowhouse. Lot 805, currently vacant, will have a new single-family semidetached house. No relief is sought for Lots 804 and 805 and they are not the subject of this application. Due to the existing historic church, the parking requirement is met as a result of parking credits under §2101.1 and under §2120 regarding parking for a historic resource.¹

B. Description of the Proposed Development

As shown on the amended architectural plans, *see* Revised Architectural Plans and Elevations at Exhibit A, the Applicant proposes to convert the existing church into an apartment with three dwelling units. Each dwelling unit will be two stories with a kitchen, living room, and dining room on the first story and three bedrooms on the second story.² The historic church will be preserved and restored.

V. NATURE OF VARIANCE RELIEF AND STANDARD OF REVIEW

Use variance relief is required from §320.3 to allow three dwelling units at the Property. Under D.C. Code §6-641.07(g)(3) and 11 DCMR §§ 3103.2 and 3103.7, the Board is authorized to grant a use variance where it finds that three conditions exist:

¹ The existing church currently has a parking requirement as stated in §2101.1. The required parking spaces are not provided on site and are therefore treated as grandfathered parking credits. The parking requirement for the project is 1 space per dwelling unit. Thus no parking is required as a result of the parking credits. Furthermore, the project is exempt from providing parking under §2120 regarding parking for a historic resource and any additions thereto because the gross floor area of the historic resource is not being increased by 50% or more.

² With three dwelling units on one Property, as a result of HPO's desire that that lot not be subdivided, the structure is an apartment, which is defined as "any building or part of a building in which there are three (3) or more apartments and one (1) or more bachelor apartments, providing accommodation on a monthly or longer basis." 11 DCMR §199.1

- (1) The property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) The owner would encounter an undue hardship in making reasonable use of the Property 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.

The District of Columbia Court of Appeals ("DCCA") has interpreted "undue hardship" to mean that a property cannot be put to any use for which it can be reasonably adapted. See *Palmer v. D.C. Bd. of Zoning Adjustment*, 287 A.2d 535, 542 (D.C. 1972) ("A use variance cannot be granted unless a situation arises where reasonable use cannot be made of the property in a manner consistent with the Zoning Regulations."). See also, *Bernstein v. D.C. Bd. of Zoning Adjustment*, 376 A.2d 816, 819-820 (D.C. 1977) ("[I]t must be shown that strict application of the Zoning Regulations would preclude the use of the property for any purpose to which it may be reasonably adapted.")

As discussed below, and as will be further explained at the public hearing, all three prongs of the use variance test are met in this Application.

VI. APPLICANT MEETS 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 presence and location of the historic church; (2) the existing nonconforming aspects of the existing structure; and (3) the large size of the lot.

The Property is located in the Georgetown Historic District and is currently improved with the historic Alexander Memorial Baptist Church building, which is listed on the DC Inventory of Historic Sites. The Alexander Memorial Baptist Church of Georgetown was formed after a split among members of the First Baptist Church on Dumbarton Street in the early 1900s. The congregation formally formed July 6, 1908, and the members erected the church on N Street in 1909. The Applicant has engaged in extensive dialogue with the Historic Preservation Office (“HPO”) and the Commission of Fine Arts (“CFA”). HPO Staff has made multiple recommendations to preserve the character of the historic church. Renovating the historic church so the structure may be used as single-family homes, while preserving the historic character of the structure, presents challenges with respect to compliance with the zoning regulations.

Having been built in 1909, well before the zoning regulations went into effect, there are several existing nonconformities that must continue in order to preserve the historic structure. The Property’s existing lot occupancy is 81%, which will remain unchanged, is above the 60% lot occupancy permitted for a church in the R-3 zone district and above the lot occupancy permitted for any residential use. Also, the Property has an existing nonconforming side yard on the eastern side of the structure and an existing nonconforming rear yard.

The Property is currently 5,015 square feet. The existing lot is significantly larger than any residential lot on the square and is one of the larger lots in Georgetown. The Alexander Memorial Baptist Church has a *footprint* of roughly 3,790 square feet. If used for residential use, as intended by the R-3 zone district, the sheer size and requirement to preserve the historic features of the structure present design and programmatic challenges.

For the reasons outlined above, the Property is subject to an exceptional circumstance.

B. Strict Application of Zoning Regulations Would Result in Undue Hardship to the Owner

The Applicant has requested a use variance from §320 to allow a three-unit dwelling at the Property. Strict application of the zoning regulations would preclude the use of the property for any purpose to which it may be reasonably adapted and result in an undue hardship to the Applicant. The R-3 District permits row dwellings, detached and semi-detached single family homes, and other miscellaneous uses. As a result of the exceptional conditions at the Property, including the presence and location of a historic church that must be preserved pursuant to the specific requests of the Historic Preservation Office, the existing nonconforming aspects of the Property, and large size of the lot and existing structure, the Property cannot be adapted to a matter-of-right use in the R-3 District.

The church building is very large relative to its land area. The existing lot is currently 5,015 square feet and the footprint of the church is approximately 3,790 square feet. Without dividing the structure into separate units, the residential unit created would be too large to market. With three conventional stories, the existing church, once converted to a single-family home, would be roughly 11,370 square feet. An 11,370 square foot single-family home would not be marketable in a building of this type at this location.

The unit size, location, and configuration proposed in this application is dictated by the size and configuration of the church, the market demand for units of a certain size, in this neighborhood, in buildings of this type, the location of existing historic windows which must remain for historic purposes, and the entry and circulation pattern necessary to prevent the need for subdivision or side entry at the request of the Historic Preservation Office and Commission of Fine Arts. See Correspondence with Historic Preservation Office at Exhibit C. Accordingly, the Applicant has proposed a three-unit layout with an entry way on the western side of the Property and a common that extends toward the rear of the structure.

The Initial Application requested area variance relief to allow subdivision of the Property and two single-family homes, each with their own entrance. Based on correspondence with the Historic Preservation staff and Commission of Fine Arts, it is anticipated that subdivision in this manner and entry on the western side of the structure will be rejected. *See* 10 DCMR §2715. While the Applicant was previously able to more efficiently utilize the available space through use of a side entrance, the anticipated denial of the subdivision by HPO requires the Applicant to reorient entrance and circulation for the units at the Property. Accordingly, the Applicant proposes to convert the structure into three units with a common entryway and corridor. The long and narrow existing historic structure, the large size of the church relative to the lot, and large historic entryway which cannot be substantially modified, makes a design with two units difficult. With a common entryway and corridor, the light available along the western lot line goes to the corridor rather than entering the units themselves. With a two unit structure, the front unit would have an entire wall without access to light. Division into a third unit allows for the lack of light to be addressed more appropriately.

Without subdivision, a three-unit structure entails less destruction of the historic fabric of the historic church. Subdivision into two units would require a large firewall between the units, which would have compromised a significant portion of the ceiling and roof structure. In contrast, the three-unit structure without subdivision does not require the firewall, allowing the historic features of the ceiling and roof to be maintained. Furthermore, the common corridor without subdivision allows removal of the separate private entrances associated with subdivision. Thus, without subdivision, a three unit layout allows for enhanced preservation of the historic structure.

Therefore, strict application of the Zoning Regulations with respect to use of the Property would result in an undue hardship to the Application.

C. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose and Integrity of the Zoning Plan

Granting the zoning relief requested would not impair the intent, purpose, and integrity of the zone plan. The proposed project will restore, renovate, and preserve the existing historic Alexander Memorial Baptist Church while providing a residential use as intended by the R-3 District. Use as three dwelling units, as opposed to the church use, will substantially reduce the intensity of the use at the Property and drastically decrease the degree of existing nonconformity with respect to the parking requirement.

VII. CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for zoning relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the Application.

Respectfully submitted

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By:



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