

BOARD OF ZONING ADJUSTMENT

Prehearing Statement in Support of Area Variance Relief- Application #19068

727 Hobart Place, NW; Square 2888, Lot 202

I. Introduction.

This Statement is submitted on behalf of The Old Penecost Church Temple of Truth, Inc. (the “Applicant”), owner of the property located at 727 Hobart Place, NW, Square 2888, Lot 202 (the “Subject Property”). The Subject Property is located in the R-4 zone district, and has a land area of 6,161 square feet. The Subject Property is a rectangular-shaped through-lot, having frontage on both Hobart Place to its south side and on Columbia Road to its north.

The Applicant is requesting minimum lot area relief to allow a record lot subdivision into four separate lots of equal land area. Each lot will have a land area of approximately 1,540 square feet. Plans are to construct a matter-of-right flat on each separate lot. The Applicant is also requesting variance relief from the parking requirement of one space for each new lot and flat.

II. Description of the Property, the Surrounding Area, and the Proposed Dwelling.

The Subject Property has a land area of 6,161 square feet. It is currently improved with a church building which was built after 1958. As proposed, the Subject Property will be divided into four equally-sized record lots with a land area of about 1,540 square feet each. Square 2888 is bordered by Columbia Road to the north, Georgia Avenue to the east, Hobart Place to the South, and Sherman Avenue to the west. The great majority of lots in Square 2888 have a land area of less than 1,000 square feet each. The portion of the block where the Subject Property sits is a little more diverse with lot sizes, including a very narrow through lot next door to the west, a larger apartment building on Hobart Place to the west of that, and to the east, four lots in almost the exact configuration and size proposed herein. There are no curb cuts in this square. The western portion

of the square has an alley bisecting it. The eastern portion, where the Subject Property lies, does not have an alley.

Redevelopment options for the Subject Property are limited. The overwhelming character of the square is small and narrow one and two-family dwellings. The Applicant could possibly divide the Subject Property into up to three lots as a matter-of-right, but to do so would require creating relatively large and irregular-shaped lots to provide the necessary lot width and area for each lot. These irregular houses would be out of character with the neighborhood. If the Applicant were to divide the Subject Property into two lots, each lot would be over 3,000 square feet, or three times bigger than the vast majority of lots in this Square. Even divided into four lots, the individual lots (which will safely meet the minimum required lot width), will still be 50% larger than those other lots in the Square. The new lots would be nearly identical in size and shape to the four lots immediately to the east of the Subject Property.

Regardless of configuration, there are currently no curb cuts on either street frontage, Hobart or Columbia, and there is no alley through or near the Subject Property. So providing any parking would be difficult or impossible, under any scenario.

III. Variance Relief and the Burden of Proof.

The burden of proof for an area variance is well established. The Applicant must demonstrate three elements: (1) unique physical aspect or other extraordinary or exceptional situation or condition of the property; (2) practical difficulty from strict application of the Zoning Regulations; and (3) no substantial detriment to the public good or the zone plan. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). As the D.C. Court of Appeals has noted, the variance procedure “is designed to provide relief from the strict letter of the regulations, protect zoning legislation from constitutional attack, alleviate an otherwise unjust invasion of

property rights and prevent usable land from remaining idle.” *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541, (D.C. 1972).

The second prong of the variance test is whether a strict application of the Zoning Regulations would result in a practical difficulty. In reviewing the standard for practical difficulty, the Court of Appeals stated in *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535, 542 (D.C. App. 1972), that “[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case.” In area variances, applicants are not required to show “undue hardship” but must satisfy only “the lower ‘practical difficulty’ standards.” *Tyler v. D.C. Bd. of Zoning Adjustment*, 606 A.2w 1362, 1365 (D.C. 1992) (citing *Gilmartin v. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990)). The Board has previously ruled on numerous occasions that relief from the 900-foot rule is considered an area variance and therefore subject to “the lower practical difficulty standards.” The D.C. Court of Appeals confirmed that ruling in *Wolf v. D.C. Board of Zoning Adjustment*, 397 A.2d 936, 943 (D.C. 1979).

As set forth below, the Applicant meets the three-part test for the requested variance from minimum lot area.

A. The Property is Uniquely Affected by an Exceptional Situation/Condition Which Makes Compliance with the Regulations a Practical Difficulty.

The Subject Property is about 6 times larger than almost every other lot in this Square. The four lots adjacent to the east are from 1,625 to 1,688 square feet in area. The lot to the west – also a through lot – is a long narrow lot of approximately 1,855 sf, with a nonconforming lot width. On the other side of that lot is a mid-sized apartment building. Besides these lots, all other lots on this

square and block range in size from 800 to 1,000 square feet. Even with the requested lot area relief, the four proposed lots will be 50% larger than almost every other lot. This has obvious implications for the marketability of any matter-of-right project, due to the large size of the units.

Additionally, the Subject Property is a through-lot, with frontage on both Columbia Road and Hobart Place. The lot is not wide enough to allow three uniform matter-of-right lots. It may be possible to gerrymander the lot boundaries to optimize the average lot width calculation to 18 feet, but this would lead to an odd 3-unit development of differing widths and crossing easements, with rear yards backing up to one of the two street frontages. The only other matter-of-right option would have two long 18-foot wide lots on one street frontage, with one shallow, wide, lot on the other street frontage. With rear yard requirements, that house could be only about 35 feet deep. Each matter-of-right option, in comparison with the 4-lot proposal, is unworkable from a land planning and marketing perspective because of the size and shape of the lot and its location on two opposite street frontages. The two unit scenario would lead to flats with over 8,000 square feet of floor area. The three-unit scenario would lead to two wide lots and one very shallow and wide lot, with lot areas which would be double the size of almost every other lot on the street. The only scenario that fits with the character of the existing homes on these streets and relieves the unnecessary burden presented by the unique conditions noted above, is the four-lot scenario.

Finally, the Property is currently improved with a church building constructed after 1958, so no conversion to apartment house is possible and the church building must be razed to make way for re-use of the Property. The proposed subdivision would result in lot sizes of around 1,540 square feet, 260 feet short of the minimum lot area, although the lot widths would be over five (5) feet wider than the minimum permitted 18 feet.

Regarding the requested parking relief, the lot is land-locked, and the District Dept. of Transportation has noted that it would not approve a curb cut in this location. In addition, the community has spoken out against any curb cut here, and the topography on Hobart Place would preclude a cut.

B. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent,

Purpose and Integrity of the Zone Plan.

The Subject Property contains an unattractive church building on the Hobart Place frontage, and vacant land on the Columbia Road frontage. Granting relief here would provide four flats in the character of the surrounding square. This proposal is the ideal use of the lot when considering the size and character of homes in the neighborhood. The church has been an unattractive building and the community is looking forward to housing being provided here. As of this date, the ANC 1B Zoning Committee has unanimously recommended to the full ANC to support the requested relief.

IV. Conclusion.

For the reasons stated above, this application meets the requirements for area variance and parking relief, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,



Martin P. Sullivan, Esq.
Sullivan & Barros, LLP