

BOARD OF ZONING ADJUSTMENT

Statement in Support of Area Variance Relief

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 on 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, with irregular houses out of character with the neighborhood. For 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).

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.

The Subject Property is about 6 times larger than almost every other lot in this Square. There are a few lots slightly over 1,000 square feet. The Subject Property is a through-lot, with frontage on both Columbia Road and Hobart Place. It is currently improved with a church building constructed after 1958, so no conversion to apartment house is possible. 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 conforming, at 23.25 feet.

B. Strict Application of the Zoning Regulations Would Result in a Practical Difficulty.

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).

Because of the unique condition of the size and location of the Subject Property, compliance with both the 1,800 square foot minimum lot area and the parking requirement would be unnecessarily burdensome. The proposed subdivision creates lots similarly sized to the four lots to the east. To do less than 4 lots would result in extraordinarily large lots out of character with this neighborhood. It would also result in an irregular lot shape due to the need to provide sufficient lot width in a three-lot scenario.

C. 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 an excellent use of this large lot in the R-4 zone.

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,



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