

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

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

1833 Central Place, NE (Square 4044, Lot 10)

This statement is submitted on behalf of Habitat for Humanity of Washington DC, Inc. (“Habitat” or the “Applicant”), the owner of property located at 1833 Central Place, NE (Square 4044, Lot 10) (the “Property”), in support of its application submitted pursuant to 11 DCMR § 3103.2 for area variances from (i) the lot width requirements of 11 DCMR § 401.3, and (ii) the off-street parking space requirements of 11 DCMR § 2101.1, to permit the construction of two new flats (four units total, each sold as a single family inclusionary zoning unit) in the R-4 District at the Property.

Pursuant to 11 DCMR § 3113.8, the Applicant will file its prehearing statement with the Board no fewer than 14 days prior to the public hearing date. In that statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board's approval of the requested relief.

I. Background Information Regarding the Property and Proposed Development

A. The Applicant

Habitat for Humanity is an international non-profit and non-governmental organization that was founded in 1976 to build decent and affordable housing across the world. Habitat’s international operational headquarters are located in Americus, Georgia, however, Habitat’s local offices coordinate all aspects of home building, including fundraising, site selection, family selection and support, construction, and mortgage servicing. Since its founding, Habitat has helped more than four million people construct, rehabilitate, or preserve homes, making Habitat for Humanity the largest not-for-profit builder in the world.

Habitat for Humanity of Washington DC (the Applicant) is the local Habitat affiliate. The Applicant organization has operated in Washington, DC for over 25 years and has built and rehabilitated over 200 homes for over 300 D.C. residents, making a life-changing impact on the lives of families in all four quadrants of the District.

B. Related Planned Unit Development

Pursuant to Zoning Commission Order No. 15-01, dated July 13, 2015, and effective on August 21, 2015, the Zoning Commission for the District of Columbia approved a planned unit development (“PUD”) and a zoning map amendment for property located at 320 Florida Avenue, NE (Square 3587, Lot 4), submitted by Level 2 Development (“Level 2”). As part of the approved public benefits and project amenities for the PUD, Level 2 committed to contributing “\$107,000 per unit to DC Habitat to co-develop a minimum of approximately 13,747 net square feet in 13 off-site affordable housing units, set aside for-sale to households earning an average of

no more than 50% of the AMI.” See Z.C. Order No. 15-01, Decision No. B(1)(a). Approximately 7,747 square feet of that amount was used to satisfy 50% of the PUD’s Inclusionary Zoning (“IZ”) requirements; and approximately 6,000 square feet of that amount was for additional affordable housing units to be regulated under DC Habitat conditions. The four units proposed to be constructed pursuant to this BZA application will help to satisfy the IZ commitment in accordance with Z.C. Order No. 15-01.

C. 1814 Central Place – Companion Application

The Applicant simultaneously filed a companion BZA application with the present case, for property located at 1814 Central Place, NE (Square 4047, Lot 57), which is located directly across Central Place from the Property. The Applicant proposes to subdivide a portion of 1814 Central Place, NE into four new record lots, and to construct one flat (two units) on each new record lot. The flats at 1814 Central Place will be identical to those proposed for the Property, and the Applicant requested the same zoning relief (variances from the lot width and off-street parking requirements) for 1814 Central Place as it did for the Property.

D. 1833 Central Place – The Property

1833 Central Place (the Property) is located on Lot 10 in Square 4044 in the northeast quadrant of the District. Square 4044 is bounded by Gallaudet Street, NE to the north, Providence Street, NE to the east, Capitol Avenue, NE to the south, and Central Place, NE to the west. The Property is located on the east side of Central Place, NE, and has approximately 3,600 square feet of land area. The Property is bounded by private property to the north, south, and east, and Central Place, NE to the east, with no alley access. The Property is a narrow lot with approximately 30 linear feet of frontage on Central Place. The Applicant proposes to subdivide Lot 10 into two separate record lots, one for each of the proposed flats. Following the subdivision, each of the new lots will have approximately 15 linear feet of frontage on Central Place, NE, and approximately 1,800 square feet of land area.

E. Proposed Development

As shown on the architectural plans and elevations included with the application, the Applicant proposes to develop the Property with two flats (four units). Each flat will be constructed to a maximum height of 32 feet, 4 inches in three stories, and will have approximately 2,646 square feet of gross floor area, to be divided between the two units within each flat. The flats will be 15 feet in width and approximately 65 feet, 10 inches in depth. The flats will be split in half, such that the first level and the rear portion of the second level will be devoted to one unit; and the third level and the front portion of the second level will be devoted to a second unit. Each unit will have three bedrooms. Off-street parking will not be provided.

All of the new units will be for-sale and devoted to households earning up to 50% of the AMI. The proposed residential use for the Property is consistent with its zoning designation and with the surrounding residential uses in the neighborhood.

II. The Applicant Meets The Burden Of Proof For The Requested Area Variance

Under D.C. Code §6-641.07(g)(3) and 11 DCMR § 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

- (1) the property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) the owner would encounter practical difficulties 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.

See French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, the Applicant meets all three prongs of the area variance test.

A. The Property Is Unusual Because of its Size, Shape or Topography and is Affected by an Exceptional Situation or Condition.

The phrase "exceptional situation or condition" in the above-quoted variance test may arise from a confluence of factors which affect a single property. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). In this case, the Property is an exceptionally narrow interior lot with private property on three sides and no alley access. The Property is one of the only remaining lots in Square 4044 that is still vacant. To the south of the Property, with frontage on Capitol Avenue, NE, are three flats that were recently constructed pursuant to BZA Order No. 17714, dated February 5, 2008, wherein the Board granted a variance for the property from the off-street parking requirements under 11 DCMR § 2101.1. Directly to the north of the Property is a three-story apartment house and associated surface parking; to the north of the apartment house are four recently-constructed flats/row dwellings with frontage on Central Place. The Property is a long-time vacant lot in a neighborhood that has otherwise seen significant infill redevelopment.

B. Strict Application Would Result in a Practical Difficulty to the Owner

1. Lot Width

Section 401.3 of the Zoning Regulations requires 18 feet in width for each flat in the R-4 District. Section 2604.3 of the Inclusionary Zoning Regulations permits 16 feet in width for dwellings in the R-4 District as a special exception. The Applicant proposes to create two new record lots that are each 15 feet in width.

Based on the Property's exceptionally narrow overall width of 30 feet, limited street frontage, and its land-locked condition, it is practically difficult for the Applicant to divide the Property into two 18-foot wide lots. At 30 feet wide, the maximum achievable width for each proposed record lot is 15 feet. Due to the existence of developed private property to the north, east, and west, the land available for the proposed flats is limited and cannot be increased in any direction. If the Applicant subdivided the Property such that each new record lot had the matter-of-right minimum width of 18 feet, then only one lot (and one flat) could be accommodated, which would result in a large side yard and the elimination of affordable housing. Moreover, the proposed width for each subdivided lot is only three feet less than the width permitted as a matter-of-right, and only one foot less than the width permitted as a special exception under 11 DCMR § 2604.3. Thus, the proposed record lots are still consistent with the spirit and intent of the Zoning Regulations

2. Parking

Section 2101.1 of the Zoning Regulations requires one off-street parking space for each two dwelling units within a flat. Thus, the Applicant is required to provide one off-street parking space on each proposed lot. In this case, the Applicant cannot provide any on-site parking spaces.

The Applicant cannot provide parking at the rear of the Property because there is no alley access. Therefore, the only other potential place to provide parking is in the front yards, or in front-loaded garages. Neither is a viable option, since DDOT will not permit new curb cuts at the front of the lots on Central Place, thus restricting vehicles from driving onto the Property to park. Moreover, providing surface parking in the front yard is not a permitted location under 11 DCMR §§ 2116.2 and 2116.4.

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

The requested relief can be granted without substantial detriment to the public good and without substantial impairment to the intent, purpose or integrity of the zone plan. The construction of two new flats (four units) that will be set aside for-sale to households earning an average of no more than 50% of the AMI will be a great benefit to the city as a whole. The flats will contribute to the vibrancy of the neighborhood, will provide infill development on a vacant site, and will fully support the District's housing and affordable housing goals.

The proposed lot widths will not result in a detriment to the public good or zone plan. The 15-foot lot widths are consistent with lot widths in the square (for example, Lots 24, 25 and 26, which are located directly behind the Property, are also 15 feet wide), and are wider than several other lots within the square (for example, Lots 49, 50 and 57, which are located directly to the south of the Property, are less than 15 feet wide). The proposed lots are only one foot short of the minimum 16-foot lot width permitted for IZ units as a special exception, and are only three feet short of the minimum 18-foot lot width permitted as a matter-of-right.

Moreover, at 120 feet deep, each lot is large enough to accommodate units designed for families, with three bedrooms and generous living spaces. If the Applicant created zoning-compliant lots at 18-feet wide each, the Applicant would have to eliminate one of the proposed record lots, thus resulting in two fewer units and contradicting the District's goal of increasing housing and affordable housing, particularly family housing at 50% of the AMI. In addition, each proposed lot will have a 39.5 foot rear yard where a 20 foot rear yard is required, plus a 14 foot, 8 inch front yard, which will result in significant open space. Further, despite the slightly substandard lot widths, each lot will still meet the minimum lot area and lot occupancy requirements, and each flat will comply with all Building Code requirements.

Regarding parking, the lack of on-site parking spaces will not result in a detriment to the public good or zone plan. The Property is conveniently located near multiple Metrobus lines, including the D3, D4, D8, and E2 lines, which all have stops located approximately 0.1 mile from the Property. The Property is also situated in close walking distance to a variety of amenities, including grocery stores (Mom's Organic Market is located approximately 0.4 miles away), schools, parks, and eating and drinking establishments, such that many new residents will not need to use a car for many daily activities. Moreover, there is on-street parking available throughout the neighborhood surrounding the Property, such that future residents will be able to park on the street without causing any appreciable impacts to the existing on-street parking conditions.

Overall, the design of the proposed flats respects the existing residential character of the neighborhood, will incorporate new, high-quality architecture at affordable prices, and will infill the vacant Property. These endeavors are consistent with *Policy LU-1.4.1* of the Comprehensive Plan for the National Capital, which encourages "infill development on vacant land within the city, particularly in areas where there are vacant lots that create "gaps" in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern." 10A DCMR § 307.5.