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

**APPLICATION OF**
**ST. PAUL'S PARISH**

**BZA Application No.** 17220
**ANC 2A**

## STATEMENT OF THE APPLICANT

This is an application of St. Paul's Parish ("**Applicant**" or "**St. Paul's**") for minor area variance relief to allow the alteration and expansion of an existing church located at 2430 K Street, N.W. and three adjacent row houses located at 2424-26 K Street, N.W. and 2422 K Street, N.W. St. Paul's Parish has been located in the Foggy Bottom neighborhood since 1866 and has been located at 2430 K Street, N.W. for over fifty years. St. Paul's is active in community outreach activities and provides numerous services to the District's indigent residents.

## I.

### Nature of Relief Sought

The church building is located at 2430 K Street, N.W. on Lot 169 in Square 28. The church owns three adjacent row houses located at 2424-26 and 2422 K Street, N.W. (the row houses, together with the church building, the "**Property**"). The Property is located in the R-3 Zone District, within the Foggy Bottom Overlay District. It also is located within the Foggy Bottom Historic District. The FB/R-3 Zone District permits church use as a matter-of-right. St. Paul's requests variance relief from the Board of Zoning Adjustment ("**BZA**" or "**Board**") to permit upgrades and an expansion to its outdated facilities. The necessary zoning relief has been self-certified as shown on the attached Exhibit A. The Applicant requests relief from the requirements of (1) §§ 403.2 and 2001.3 regarding lot occupancy, (2) § 406.8 regarding an addition to a building with a side yard of less than eight feet and, (3) §1523.1 regarding

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expansion of an existing building in the FB Overlay District. The Applicant's satisfaction of the standards for granting area variance relief is discussed in detail in Section IV of this statement.

## II.

## Jurisdiction of the Board

The Board has jurisdiction to grant the relief requested pursuant to §3103 of the Zoning Regulations.

## III.

## Background

### A. St. Paul's Episcopal Church

St. Paul's Parish was founded in 1866 with the building of its first church at 917 23rd Street (Washington Circle), where the congregation worshipped until the end of World War II. In connection with the construction of a new hospital for the George Washington University, the government took the original property by eminent domain, and the old building was closed at the end of 1944. The church purchased the current property on K Street and engaged the architect Philip H. Frohman to design a new building. The first service was held in the partly completed edifice in June of 1948.

### B. Description of the Property and Surrounding Area

The Property is located on K Street, N.W. between 24th and 25th Streets. It has frontage on K Street to the north and abuts a public alley to the south. A four-foot public alley separates a portion of Lots 169 and 828. To the east, the Property abuts a three-story brick row house, which in turn abuts the nine-story Circle Arms apartment building. To the west, the Property abuts the rear yards of a series of row houses fronting on 25th Street. St. Paul's also owns Lot 846, which is located across the public alley to the south and which is used as parking for the

church. The surrounding area is characterized by large apartment and condominium buildings, dormitories for The George Washington University, and row houses.

The Property is improved with a church building, which was constructed in 1948, ("**Church**"), two two-story brick row houses ("**2424/26 Row House**"), and a three-story brick row house ("**2422 Row House**"). The Church also includes a three-story 1957 addition known as the Pillsbury wing, which provides classroom facilities, office facilities, and a social hall and kitchen. The 2424/26 Row House abuts the Church and is separated from it by a slate courtyard and small landscaped area. The 2422 Row House abuts the 2424/26 Row House. To the west, the Church is separated from the rear yards of a series of row houses by a grass lawn and concrete terrace.

### C. Description of the Project

St. Paul's is requesting permission to construct an addition to its existing building in order to enhance and modernize its facilities and to renovate its existing facilities ("**Project**"). The addition and renovations will address program needs that have arisen in the fifty-six years since St. Paul's constructed its original building.

As shown on the plans attached as Exhibit B, St. Paul's will retain the Church and the 2422 Row House and the façade of the 2424/26 Row House. It plans to fill in the slate courtyard separating the Church from the 2424/26 Row House with an aesthetically appropriate addition. This addition will house the new narthex (a porch or interior vestibule) and will feature a skylight. The skylight will not be visible from the street. St. Paul's also plans to construct a small addition at the rear of the 2422 Row House, which will feature offices and work areas. The new addition will complement the existing office and work space available at the 2422 Row House. The rear of the 2422 Row House and addition will feature a handicapped-accessible

entrance and three handicapped parking spaces. The renovation of 2424/26 will address the increasingly important musical functions and needs of the church and will provide offices and rehearsal rooms. St. Paul's plans to maintain the existing grass and landscaping located to the east of the Church.

**D. Areas of Necessary Relief**

The Project requires minor area variance relief. The Project will result in a lot occupancy of 65%. Under § 403.2 of the Zoning Regulations, the permitted lot occupancy in the FB/R-3 Zone District is 60%. Thus, the Project requires area variance relief for lot occupancy.

Also, as a result of the configuration of the existing historic buildings and the facilities needs of the church, the rear entrance creates a court that does not conform to the width requirements of § 406.1. The width of the court as provided in the Project is 3.3 feet deep and 5.5 feet wide. Under § 406.1 a closed court must be at least 15 feet wide and 350 square feet in area.

In addition, the Project contemplates an addition to a nonconforming structure. The 2422 Row House is nonconforming because it has an inadequate side yard of 4.5 feet. Under § 405.9 no side yard is required in an R-3 Zone District for a church or row house. However, § 405.6 requires that, if a side yard is provided, it shall be at least 3 inches wide per foot of height of building but not less than 8 feet. In its existing condition, the 2422 Row House does not meet the 8 foot minimum side yard requirement. Section 405.8 allows the construction of an addition to a building existing on or before May 12, 1958, which provides a side yard of less than 8 feet but with a minimum of 5 feet. The 2422 row house provides a side yard of 4.5 feet. The Project does not meet the requirement of § 405.8 because it extends the existing 4.5 foot side yard.

Further, the Project does not meet the requirements of § 2001.3 because it will be an addition to a nonconforming structure that creates a new nonconformity. The Church and 2422 Row House do not conform to the rear yard and side yard requirements of the Zoning Regulations. Under, § 2001.3, an addition may be made to those structures as long as the addition or enlargement conforms to the use and structure requirements, neither increases or extends any existing, nonconforming aspect of the structure or creates any new nonconformity of structure and addition combined. The addition will extend the nonconforming side yard and create a new nonconformity with regard to lot occupancy.

Finally, because the Property is located in the Foggy Bottom Overlay District and requires area variance relief, it automatically requires a variance from § 1523.1. That section requires all additions in the Overlay to conform to the requirements of the R-3 Zone District.

## IV.

## The Application Meets the Requirements for Area Variance Relief under § 3103.2 of the Zoning Regulations

The burden of proof for an area variance is well established. The Applicant must demonstrate that: (i) the property is affected by an exceptional or extraordinary situation or condition; (ii) that the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant; and (iii) that the granting of the variance will not cause substantial detriment to the public good or substantially impair the intent, purpose or integrity of the zone plan. *See, e.g., Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). In examining the first two elements, the BZA may apply a more flexible standard for determining difficulty when a public service or nonprofit entity is the Applicant. *See National Black Child Development Institute v. D.C. Board of Zoning Adjustment*, 483 A.2d 687, 690 (D.C.

1984); *Monaco v. D.C. Board of Zoning Adjustment,* 407 A.2d 1091, 1098 (D.C. 1979) The D.C. Court of Appeals has applied the more flexible standard to area variances as well as use variances. *See Draude v. D.C. Board of Zoning Adjustment,* 582 A.2d 949, 956 (D.C. 1990). As set forth below, the Applicant meets the three-part test for the requested area variances.

**A. The Property is Affected by an Exceptional Situation or Condition**

The D.C. Court of Appeals held in *Clerics of St. Viator v. D.C. Board of Zoning Adjustment,* 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the "property", not just the "land"; and that "property generally includes the permanent structures existing on the land." *Id.* at 293-294. Indeed, the Court repeatedly has rejected the idea that the exceptional situation and undue hardship justifying a use variance must arise from the physical aspects of the land. *See National Black Child Development*, 483 A.2d at 690; *Monaco v. D.C. Board of Zoning Adjustment*, 407 A.2d 1091, 1097 (D.C. 1979). Instead, the BZA may "weigh more fully the equities in an individual case." *National Black Child Development*, 483 A.2d at 690.

Here, the Property is affected by an exception situation in that it is improved with historic buildings that are devoted to church use. The existing buildings on the Property are nonconforming and were constructed well before the Zoning Regulations became effective. In addition, the Property is located in close proximity to large-scale apartment and dormitory buildings and is situated on a busy portion of K Street that provides access to the Whitehurst freeway and Rock Creek Parkway. The Church provides a nonconforming rear yard, and the 2422 Row House has an existing nonconforming side yard. St. Paul's also is unique because it provides significant public services to the Foggy Bottom neighborhood and District as a whole.

### B. Strict Application of the Zoning Regulations Would Result in Practical Difficulty to St. Paul's

To satisfy the second element for an area variance standard, the Applicant must demonstrate "practical difficulty." The D.C. Court of Appeals has established a two part test for determining whether an applicant has met its burden of proof. The applicant must demonstrate that "compliance with the area restriction would be unnecessarily burdensome" and that the practical difficulty is "unique to the particular property." *Gilmartin,* 579 A.2d at 1170. The Court of Appeals has held that 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." *Id.* at 1171. "Increased expense and inconvenience to applicants for a variance are among the proper factors for [the] BZA's consideration." *Id.* Some other factors that the BZA may consider are "the weight of the burden of strict compliance," "the severity of the variance(s) requested," and "the effect the proposed variance(s) would have on the overall zone plan." *Id.* The BZA also may consider the needs of a public service organization that "has inadequate facilities and applies for a variance to expand into an adjacent area in common ownership ...." *Draude*, 582 A.2d at 956.

It would be unduly burdensome for St. Paul's to comply with the Zoning Regulations. In designing the Project the architects faced significant difficulty in satisfying the Building Code requirements while providing adequate facilities for St. Paul's and retaining the historic character of the existing buildings. St. Paul's existing facilities are inadequate for its requirements, and it needs the requested variances to properly update its facilities. St. Paul's has added a number of programs since its building was constructed in 1948. St. Paul's currenlty is very active in providing food to the homeless and needy of the District. Thus, St. Paul's needs space for a larger and more modern kitchen and offices for volunteers. Further, St. Paul's renowned music program does not have a sufficient practice room or sufficient office space.

As the D.C. Court of Appeals held in *Gilmartin*, the Board may consider the extent of the variances requested in determining whether the applicant meets the burden of proving practical difficulty. Here, St. Paul's is requesting only very minor variance relief. The resulting lot occupancy will be only 5% more than permitted as a matter-of-right. The court created by the new addition will affect only a vestibule, a kitchen and a stairwell, and will not adversely affect the adequacy of the light and air in those spaces. Finally, the extension of the 4.5 foot side yard is only 6 inches less that what would be permitted as a matter-of-right.

### C. Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan

The requested variances can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone Plan. Indeed, granting the requested variance relief advances the intent and goals of the Zone Plan for this area as defined in the Foggy Bottom Overlay District ("FB") of the Zoning Regulations, 11 DCMR 1521 et seq., as well as the goals of the Comprehensive Plan.

Some of the goals that the FB Overlay was established to accomplish include the following:

1) Require a scale of development consistent with the moderate density category of the Comprehensive Plan and the characteristics of the low scale harmony of rhythmic townhouses of a purely residential neighborhood that formed the basis on which the area was designated a historic district. (See 11 DCMR § 1521.3(a)).

2) Protect the integrity of the historic district, its small scale, and open spaces, require compatibility of any development with the purposes of the Historic Landmark and Historic District Protection Act, and preclude demolitions or partial demolitions that would lead to an increase in height and floor area ratio inappropriate to the area. (See 11 DCMR § 1521.3(b)).

3) Enhance the special human scale streetscape by maintaining the public space in front of the buildings as landscaped green spaces and limiting future curb cuts. (See 11 DCMR § 1521.3 (e)).

The Project fully satisfies the intent and letter of the FB Overlay requirements and the Comprehensive Plan. As shown in Exhibit B, the Project has been carefully designed to remain

compatible with the design and height of existing housing adjacent to and near the Property. This will retain the human scale streetscape and low scale harmony of rhythmic townhouses. The landscaped green space on the east side of the Property will remain. The proposed minor additions will not change the scope or character of St. Paul's operations on the Property. Further, the Project requires only minor variance relief. Accordingly, it will not cause substantial detriment to the Zone Plan or the public good.

## V.

## Exhibits in Support of Application

A. BZA Form 135, Self Certification
B. Plans for Project
C. Zoning Map & Sanborn Atlas excerpts
D. Building Plat
E. Authorization Letter from Property Owner
F. Property Owners' List
G. Photographs of the Property
H. BZA Form 120, Application

## VI.

## Conclusion

For all of the above reasons, St. Paul's respectfully requests approval of the subject application.

Respectfully submitted,



Allison C. Prince



Ashleigh Horne

July 19, 2004

Document #: 1414889 v.2