

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application of KS FBC, LLC
17th and O Streets, N.W.
(Square 181, Lot 163)

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

KS FBC, LLC, an affiliate of Keener-Squire Properties, on behalf of the First Baptist Church of the City of Washington ("Applicant"), proposes to construct an addition to the existing First Baptist Church at 1328 16th Street, N.W., Washington, D.C. (Square 181, Lot 163). The addition will be a nine-story apartment building located on the existing parking lot located immediately behind the church. The new apartment building will be located at the southeast corner of 17th and O Streets, N.W., with the main lobby fronting on 17th Street. Lot 163 contains 43,287 square feet of land area. The property is split-zoned, with the west portion of the parking lot that fronts on 17th Street located in the DC/SP-2 District, and the remainder of the site located in the DC/-SP-1 District. The site also falls within the boundaries of the Massachusetts Avenue, 16th Street, and Dupont Circle historic districts.

II. Relief Requested

Because of the small size of the development parcel and other extraordinary and exceptional conditions inherent in the property, the Applicant seeks the following special exception and variance relief.

A. Special Exception Relief: *Uniform Roof Structure Height (§411.5)*

Roof structure enclosing walls must be of equal height as measured from the roof level. Here, the mechanical penthouse will have a typical height of 13 feet above the roof level, while the elevator override will have a total height of 18 feet. Because the elevator override cannot be reduced in height, if the Applicant were to comply with this regulation, it would need to increase the height of the mechanical penthouse enclosure walls by another five feet. In doing so, however, the Applicant would unnecessarily increase the visibility of the roof structure from the street, which would have a negative impact on the three historic districts in which the site is located. The Applicant's design, however, to reduce the height of the mechanical penthouse to 13 feet would protect the architectural integrity of the historic districts and meet the spirit and intent of the regulations to exercise a reasonable degree of architectural control over roof structures.

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B. Variance Relief

1. Height (§530.1) – the location of the apartment house addition is split-zoned SP-1 and SP-2. The SP-2 District allows a maximum height of 90 feet whereas the SP-1 District permits a maximum height of 65 feet. The Applicant proposes to construct the apartment house to a uniform height of 90 feet and therefore requires relief from the height limitations of the SP-1 District.

2. Size of Parking Spaces (§2115.4)-- the Applicant proposes to provide compact parking spaces in groups of less than five spaces, as required under the regulations, in certain discreet areas of the parking garage. This arrangement allows the Applicant to provide the maximum number of spaces given the footprint of the building.

III. Burden of Proof

The test for variance relief is three-part: (1) demonstration that a particular piece of property is confronted with some exceptional condition or situation; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or zone plan.

A. Exceptional Condition or Situation

The Applicant will demonstrate that the property is constrained by the existing church building on the site, its historic status and the amount of land area it covers, as well as the split-zoning of the lot and its unusual configuration with three street frontages. These conditions inherent in the property create practical difficulties in complying with the strict requirements of the height limitations and parking provisions, as described below.

B. Resulting Practical Difficulty

The Applicant is unable to utilize all the residential development permitted on site because the historic preservation constraints will not permit construction over and above the church. It is not possible to cantilever over the church structure, either. The only way to recover some of the lost residential density is to construct a taller building on a portion of the property zoned SP-1.

With respect to the configuration of the compact parking spaces, section 2120.5 of the regulations allows all parking spaces for additions to historic properties to be compact in size. However, section 2115.4 still requires all compact spaces to be located in groups of at least five spaces. Here, because of the location of the building core as well as the garage exhaust shaft in the southeast corner of the building, the Applicant is unable to combine the compact spaces in

groups of five. If the Applicant were required to comply with this regulations, it would lose four spaces on each of the P-2 and P-3 levels, and three spaces on the P-1 level. or a total of 11 spaces. The loss of 11 parking spaces will render the building non-compliant with the required number of spaces under zoning and will fall well short of the projected parking demand for the building.

C. No Harm to Public Good or Zone Plan

The Applicant will demonstrate that the requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan. Many of the buildings within the 17th Street corridor are constructed to a height of 90 feet. The variance relief the Applicant to maximize residential use to the extent reasonably possible in a downtown location where residential use is encouraged. Most of the site is designated for high-density residential use on the Future Land Use Map, with the O Street frontage designated medium-density residential. Even with the variance relief, the maximum residential density on site would be 2.6 FAR, which falls below what the Comprehensive Plan would otherwise allow.

Similarly, the minor deviation from the grouping of compact spaces will not harm the public good. Additions to historic buildings are already permitted to provide all compact spaces in a garage, such that the configuration of compact spaces in groups of less than five appears to be an oversight in the regulations for historic buildings. In all other respects, the Applicant complies with the parking requirements and this *de minimus* deviation will not adversely affect the integrity of the zone plan.

IV. Conclusion

Pursuant to section 3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than 14 days prior to the public hearing for the present Application. Through the Applicant's written statement, and through testimony and evidence presented at the public hearing, the Applicant will demonstrate how it meets its burden of proof to obtain the Board's approval of the requested relief.

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