

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

**Additional Request for Variance Relief
Amaro LLC
101 Q Street, N.E. (Square 3518, Lot 25)**

Case No. 19726

ADDITIONAL STATEMENT OF THE APPLICANT FOR VARIANCE RELIEF

This statement is submitted on behalf of Amaro LLC (“Applicant”), in support of its request for variance relief from the requirements of Subtitle C, § 711.6 and Subtitle C § 902.3 of the Zoning Regulations of the District of Columbia 2016 (“Regulations,” Title 11 DCMR), which, respectively, establish driveway width requirements and loading berth requirements. Applicant seeks a variance from these requirements in connection with its construction of an emergency shelter, including penthouse, on property it owns located at 101 Q Street NE (Square 3518, Lot 25) (“Property”). The Applicant was recently informed by Staff that such variances may be necessary and is therefore requesting that this request be added to the pending special exception case.

I. INTRODUCTORY STATEMENT

Applicant seeks to build a five-story structure containing an emergency shelter, including living units, administrative offices and related facilities, as well as additional commercial office space that may be rented to other office users (the “Project”). In connection with the Project, Applicant filed the application for special exception relief to operate an emergency shelter within a PDR-2 Zone and to construct two enclosed penthouse-level stairwells within certain penthouse setback areas, pursuant to Subtitle C §§ 1502.1(b) and (d), and 1504 (the “Special Exception Application”). During the course of review of the Special Exception Application (BZA Case No. 19726), District agencies raised the question of whether the Regulations require Applicant to include a loading berth and a twenty-foot (20’) wide driveway for the surface level parking lot at the rear of the building. Although it is not clear to the Applicant that the Regulations require a variance from either such requirement, because the Applicant cannot meet with the Zoning Administrator until April 5, the Applicant is filing this Additional Statement requesting the variance relief (the “Variance Relief”) out of an abundance of caution. Particular information

concerning the Project as set forth in the Special Exception Application is incorporated into this Additional Statement by reference, as if fully stated herein.

II. NATURE OF RELIEF SOUGHT

Applicant requests that the Board approve the following relief, to the extent such relief is necessary under the Regulations:

- 1) an area variance from the driveway width requirements of Subtitle C, § 711.6; and
- 2) an area variance from the loading berth requirements of Subtitle C, § 902.3.

III. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the variances requested pursuant to Subtitle X § 1000.3 and Subtitle Y §100.3.

IV. DESCRIPTION OF PROJECT

The Variance Relief is potentially needed for the rear driveway serving the ten (10) parking spaces and trash containers within the parking lot and to eliminate the obligation to construct a loading berth. If Applicant is unable to secure a variance from these requirements, Applicant's ability to provide badly needed crisis housing will be severely limited because it will be required to reduce the building footprint and units which will greatly impact funding resources.

Applicant seeks to construct a five-story building containing an emergency shelter, including living units, administrative offices and related facilities, as well as additional commercial office space that may be rented to other office users. The proposed facades of the building include a mixture of masonry, steel and siding materials that create a contemporary clean appearance with warm tones to create a welcoming residential feel.

The building will contain 32,251 square feet of gross floor area ("GFA"). The lowest level of the building will have a ceiling that is less than four 4 feet (4') above the adjacent finished grade, and thus constitutes a "cellar", which is excluded from the calculation of GFA. Subtitle B, § 100.2. This cellar area, about 6,740 square feet, will contain office space with areaways along the front of the building, mechanical space, and storage areas. The ground floor of the building will contain 6,124 square feet of GFA, and will include the entrance to the

emergency shelter units on the upper floors, as well as office space for the Applicant and/or other office users. The second floor will contain 6,583 square feet of office GFA that may be used by the Applicant or rented to other users.

The third, fourth and fifth floors will contain 6,388 square feet, 6,578 square feet and 6,578 square feet respectively, and will consist of 30 dwelling units (studios, one-bedroom, two-bedroom and three-bedroom units) and a laundry room for the emergency shelter clients. The units can be connected, by way of shared doorways, to allow for larger family situations, and each will contain a kitchen area. All units will be completely furnished, all units will include bath and kitchen supplies, and all shelter clients are only expected to bring luggage. As such, the shelter does not generate any need for a loading area. The office uses will be limited in their need for loading, which can be accommodated by smaller vehicles and within the parking lot at controlled times.

The Project will include ten (10) on-site vehicular parking spaces, one (1) of which is an accessible parking space; six (6) long-term bicycle parking spaces; four (4) short-term bicycle parking spaces; a controlled access gate and fencing around the rear parking lot with a separately fenced in waste/recycling area and emergency generator; and landscaping improvements. There is currently an agreement with the District of Columbia Department of Transportation ("DDOT") to allow use of the adjacent five (5) parking spaces along First Street. Applicant will pursue a continuation of this agreement; however, the use of the five (5) parking spaces is not necessary to satisfy parking requirements set forth in the Regulations.

Access to the vehicular parking spaces will be achieved from First Street, which is a low volume street, through a controlled-access gate. The initial driveway serving the parking lot will have a minimum width of twelve feet (12') but will expand to twenty feet (20') in width parallel to the parking spaces and trash containers. Access to the driveway and parking area will be controlled by a gate that will prevent vehicles from entering and exiting simultaneously, thus creating a one-way situation. Access to the building and rear parking area will also be restricted through a system of fobs, restricted access areas, and strictly enforced rules prohibiting visitors and prohibiting disclosing the location of the facility. Parking will not be open for the public and instead will be restricted to use only by tenants of the building.

Other than the Variance Relief requested herein and the Special Exception Application, the Project satisfies all other development standards applicable to the PDR-2 Zone:

- (i) The Project satisfies the 3.0 FAR restriction under Subtitle J, §§ 202.1 and 202.3 of the Regulations for both the emergency shelter use as well as any potential office use;
- (ii) The Project includes a rear yard of at least twelve (12) feet (Subtitle J, § 205.2);
- (iii) The required Green Area Ratio ("GAR") is 0.3 pursuant to Subtitle J, § 208.1, and the Project proposes 0.3 GAR;
- (iv) The Project will include ten (10) vehicular parking spaces (one (1) of which is an accessible space), which is in excess of the nine (9) spaces required under the Regulations based upon the following: shelter use of 25,000 square feet (requirement is 0.5 spaces per 1,000 square feet or thirteen (13) spaces), and the office use of 7,251 square feet on the ground and second floors, plus 6,740 square feet of potential office use in the cellar which is counted for parking purposes only (Subtitle C, § 709.1(e)) is 13,558 square feet (requirement of 0.5 spaces per 1,000 square feet after the first 3,000 square feet, thus 10,558 square feet divided by 1,000 times 0.5 results in six (6) spaces), for a total of eighteen (18) spaces for the Property, for which a 50% reduction is allowed based on proximity to the NoMa/Gallaudet Metrorail and Priority Metrobus Routes, resulting in a requirement of nine (9) spaces;
- (v) The Project is required to have four (4) short-term bicycle spaces (based upon 25,000 square feet of emergency shelter use and 7,251 square feet of other office uses) and provides four (4) short-term spaces; and, is required to have six (6) long-term bicycle parking spaces and provides six (6) such spaces; and
- (vi) The Project has a maximum height at the parapet wall of 56.67 feet, which is below the maximum permissible building height of 60 feet, and the penthouse is twelve (12) feet in height and one story, as permitted by Subtitle J, § 203.6.

V. VARIANCE RELIEF AND STANDARD OF REVIEW

Applicant seeks a variance from the requirement (as applicable) to install a twenty foot (20') wide driveway to the parking lot and the requirement (as applicable) to construct a loading berth. A variance may be granted if: (i) as a result of the attributes of the Property the strict application of the Regulations would result in peculiar and exceptional practical difficulties to

the Applicant; and, (ii) relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan (Subtitle X, §§ 1000.1 and 1002.1). As set forth below, Applicant meets these standards.

Pursuant to Subtitle C, § 711.6, within twenty feet (20') of all street lot lines, a driveway (other than as described in Subtitle C, § 711.5) must be: (a) at least twelve feet (12') wide for one-way traffic or twenty feet (20') wide for two-way traffic; and (b) not more than twenty-four feet (24') wide (driveways described in Subtitle C, § 711.5 are not applicable here because they are only driveways that provide access to parking spaces serving a single dwelling unit or flat, no more than two (2) parking spaces for any use, or shared access across public or private property to no more than three (3) single dwelling units or flats). The proposed driveway will only be accessible through a controlled-access gate and is thus essentially a one-way driveway. It will widen to twenty feet (20') behind the parking spaces and trash containers.¹

Pursuant to Subtitle C, § 901.1, a loading berth must be provided for an office with a minimum 20,000 square feet of gross floor area or an emergency shelter with a minimum 30,000 square feet of gross floor area. Subtitle C, §§ 902.1 – 902.3 also provides, for the purposes of calculating loading berth requirements, that: (i) non-residential uses within the same use category are to be added together to derive the total gross floor area to determine the total number of berths required for the use category; (ii) where two or more uses in differing categories share the same structure, the structure is only required to provide enough berths to meet the requirement for the use with the highest requirement, so long as all uses requiring loading have access to the loading area; and (iii) at least one berth must be provided where the sum of the gross floor area of separate uses exceeds the minimum floor area requiring loading berths for any one of the separate uses.² Although the individual office and shelter uses do not trigger a requirement to

¹ The gate to the driveway will only allow one vehicle to enter or exit the parking lot with each use of a secured access remote or passcode. Although this comports with the concept of “one-way traffic”, the Zoning Regulations do not clearly define “one-way traffic”. As a result, Applicant has submitted this request for Variance Relief out of an abundance of caution; however, Applicant reserves all rights to contend the anticipated use of the driveway constitutes one-way traffic such that only a twelve-foot (12') driveway is required.

² Subtitle C, § 901.6 of the Regulations provides that, unless an existing building has met the maximum loading requirements, a building addition or expansion of use within a building will only trigger additional loading requirements where the gross floor area of the building or use is expanded or enlarged by 25%, “or, in the case of a new building, the gross floor area used to calculate the initial loading requirement.” The section further provides that “[t]he additional

construct a loading berth, if the gross floor area of each use is combined, at least one loading berth would be required under the standards applicable to office and emergency shelter uses.

As the Project does not meet either condition, Applicant is requesting a variance from the requirement to install a twenty foot (20') wide driveway and a loading berth.

A. Due to the Attributes of the Property, Strict Application of the Driveway Width and Loading Berth Requirements Result in Peculiar and Exceptional Practical Difficulties to the Property Owner

As can be seen from the Plat, the Property is located at the intersection of Q and First Streets NE, and is configured in a shape akin to a trapezoid. As a result of this configuration, the area of the Property facing First Street only has a depth of 72.77', while other areas of the Property achieve a maximum depth of over 100'.

In that regard, where properties front on two (2) or more streets, DDOT policy favors the placement of driveways on the street having the lowest traffic volume, which in this case would be First Street. DDOT driveway standards further require that the driveway be at least sixty (60) feet from the nearest intersection. As a result, to satisfy DDOT policies and standards, Applicant must locate the driveway to the Property along First Street, at the rear of the Property. However, due to the shape of the Property, design of the Project to accommodate a twenty foot (20') driveway would require elimination of multiple residential units and necessary office space for intake operations for users of the shelter space. Compliance would likewise require increased costs to design and construct a diagonal wall along the southwest corner of the building. Imposition of this requirement also makes little practical sense, as First Street is a low-volume street that dead-ends adjacent to the Property, the driveway will only serve a maximum of ten (10) vehicles, the parking lot is not open to the public, and the driveway will only be accessible through a gate that limits access and controls when vehicles can enter and exit the Property.

loading berths ... required shall be calculated based upon the entire gross floor area added." This language appears to provide that loading berths are only required for new buildings to the extent the Project gross floor area (32,251 square feet) exceeds the square footage of the existing building (16,624 square feet) by 25%, and in such event, the requirement is only measured based upon the gross floor area in excess of 16,624 square feet. If that is the case, this would result in a measurable gross floor area of 15,627 square feet, which is below the minimum floor area necessary to trigger loading requirements. Applicant has filed this Variance Relief out of an abundance of caution, but in doing so Applicant reserves all rights to contend that no loading berth is required.

Compliance with the loading berth requirements also results in peculiar and exceptional difficulties. Because of the shape of the Property, to satisfy minimum parking requirements, Applicant is already required to cantilever over a portion of the parking area. Applicant cannot also satisfy a requirement to install a loading berth absent incredible hardship and expense. Not only would it be incredibly difficult to satisfy parking and loading requirements, installation of a loading berth requires reconfiguration of interior ingress and egress routes and elimination of several residential units. It also makes no sense to require a loading berth given that: (i) the office use of the Project is not expected to exceed a gross floor area of 13,000 square feet (under conditions where a minimum gross floor area of 20,000 square feet is necessary to trigger a loading berth requirement); (ii) the remaining 20,000 square feet of gross floor area for the shelter space does not satisfy the minimum standards for a loading berth; (iii) the shelter use (which is akin in design to a residential multifamily building as opposed to a traditional shelter) consists of only 30 residential units (under conditions where a minimum of 50 residential units would be necessary to trigger a loading berth requirement); and (iv) there is no need for loading space for move-ins and move-outs as all shelter units already come fully furnished.

B. Relief can be Granted without Substantial Detriment to the Public Good and without Impairing the Intent, Purpose, and Integrity of the Zone Plan

Approving the Variance Relief will have no adverse impacts upon the public good, the surrounding neighborhood, or the intent, purpose, or integrity of the zone plan. With respect to the requested relief for the driveway, First Street is a very low-volume street that dead-ends adjacent to the Property. As such, the driveway would only actually impact the traffic that is accessing and departing the Project, which will consist of a maximum of ten (10) vehicles utilizing the parking spaces in the rear of the Property. Furthermore, the driveway will only be accessible via a gate that will both control access to and from the parking lot. The purpose of the driveway width is to assure the safety of vehicles passing one another in and out of a parking lot. In this case, the controlled gate will assure vehicles pass safely.

Similarly, as the office use within the Project is not expected to exceed 13,000 gross square feet of floor area (under conditions where a minimum occupancy of 20,000 gross square feet is necessary to trigger a loading berth requirement), and as the remaining shelter space will be constructed in a fashion consistent with a residential multifamily building as opposed to a

traditional shelter, and will consist of only 30 residential units, the reasonable expectation is that the loading needs for the project will be minimal and can be accommodated with smaller vehicles in the parking area.

VI. COMMUNITY OUTREACH

Applicant conducted extensive community outreach prior to submission of the Special Exception Application, and the design of the Project has not changed due to the possible need for this Variance Relief. This has included meetings with neighbors, ANC members, the Zoning Administrator and Office of Planning staff. These efforts are more fully described on the Certification and Pledge of Notification.

VII. CONCLUSION

For all of the reasons stated above, the Project meets the applicable standards for the Variance Relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant this Variance Relief.

Respectfully Submitted,

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