

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

**Application of Amaro LLC
101 Q Street, N.E. (Square 3518, Lot 25)**

BZA Case No. 19726

AMENDED SUPPLEMENTAL AND REVISED STATEMENT OF THE APPLICANT

This Amended Supplemental and Revised Statement of the Applicant (“Statement”) is submitted on behalf of Amaro LLC (“Applicant”), to (1) supplement and revise its application for special exception approval pursuant to Subtitle U § 802.1(c), Subtitle C § 1502.1(b) and (d) and Subtitle X § 901.2 of the Zoning Regulations of the District of Columbia 2016 (“Regulations”) to construct an emergency shelter, including penthouse, on property it owns located at 101 Q Street NE (Square 3518, Lot 25) (“Property”), and (2) to respond to issues raised by the Board of Zoning Adjustment concerning the request for special exception relief from penthouse setback requirements. The changes consist of the following: i) a request for special exception relief for certain walls of the penthouse, in addition to the side and the rear stairwells to the penthouse, with corresponding revised elevations, sections and justification language; and ii) provision of a shadow study and other drawings that demonstrate hardships incurred by relocation of the penthouse stairwells and walls. We have only included sections from the Supplemental and Revised Preliminary Statement that have been modified.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board approve the following relief:

- 1) a Special Exception for an emergency shelter, pursuant to Subtitle U § 802.1(c); and
- 2) a Special Exception to allow (a) two (2) enclosed stairwells to the rooftop penthouse within the setback areas, one of which is located on the side building wall and the other of which is located on the rear building wall; and, (b) portions of the penthouse within two setback areas (front and rear side), each pursuant to Subtitle C §§ 1502.1(a), (b) and (d), and § 1504.

II. BACKGROUND

A. The Project

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 (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 have the ability to 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, and will include bath and kitchen supplies. The emergency shelter use will also include on-site caseworkers and other staff, which will provide services and support to assist families in their time of crisis and transition. As much as possible, the area will be designed like a typical apartment building. Safety of all residents will be supported through cameras which will be monitored at Applicant’s 24/7 courthouse location and in staff areas. Security guards will be used during certain non-office hours. Access to the building and the rear parking area will be restricted through a system of fobs, controlled gates, restricted access areas, and strictly enforced rules prohibiting visitors and prohibiting disclosing the location of the facility.

The rooftop will be used for an outdoor play area for children of approximately 1,349 square feet, an outdoor terrace for adults of about 293 square feet, and enclosed communal

recreation space of about 2,049 square feet. The remainder of the rooftop will be used for a green roof. In addition, the rooftop of the penthouse communal recreation areas will be used for mechanical equipment and a green roof. There is a centrally located elevator and stairwell that goes to the rooftop level, and a second enclosed stairwell used to provide emergency access and egress to/from the rooftop, will be located along the eastern building wall. The penthouse mechanical and communal recreation and amenity space are all excluded from the calculation of GFA pursuant to Subtitle C, § 1503.1(a) – (c).

III. SPECIAL EXCEPTION RELIEF AND STANDARD OF REVIEW

Applicant seeks a Special Exception to operate an emergency shelter, which is permissible in a PDR-2 zone (Subtitle U, § 802), and Special Exception Relief from the penthouse setback requirements for minor encroachments of the northern and southern sections of the penthouse into the setback areas and the two (2) penthouse-level stairwells, all of which are permissible as the Project is not constructed to the maximum height allowed by the Height Act, and so long as other considerations are satisfied. Subtitle C, §§ 1504.1 and 1504.2. The proposed Project and requested Special Exception Relief satisfy the criteria for the granting of the Special Exception for the penthouse setbacks.

IV. DISCUSSION

A. The Application Satisfies the Factors Considered for a Special Exception Granting Relief from the Penthouse Setback Requirements

Pursuant to Subtitle C, §§ 1502.1(a), (b) and (d) of the Regulations, a penthouse must be setback from the edge of the roof upon which it is located as follows:

“(a) A distance equal to its height from the front building wall of the roof upon which it is located,”

“(b) A distance equal to its height from the rear building wall of the roof upon which it is located,” and,

“(d) A distance equal to one-half (0.5) of its height from any side building wall of the roof upon which it is located that is not adjoining another building wall and not meeting the conditions of paragraphs Subtitle C §§ 1502.1(c)(1) through (5).” [The conditions of Subtitle C §§ 1502.1(c)(1) through (5) relate to buildings used as detached dwellings, rowhouses, or flats; buildings in the R-1 through R-3 and RF zones; buildings located adjacent to property with lower

permitted matter-of-right height or with a designated historic landmark or contributing structure; or buildings with walls that border any court other than closed courts. The Property does not meet any of these conditions.]

Since the time of filing this Application, Staff and the Zoning Administrator have determined that for purposes of measuring the penthouse setback, the height of the penthouse is measured from the roof on which it sits to the top of the penthouse parapet. The Applicant had designed and presented the penthouse using the penthouse rooftop as the measuring point and not the penthouse parapet, which is needed in order to provide a green roof area. Accordingly, the penthouse structure is only ten feet (10') from both the north/front building wall and the rear/south building wall, and the setback requirement is twelve feet (12') when the parapet is included. Further, the stairwells are both within the required setbacks which require six feet (6') for Stairwell #1 from the east/side building wall, and twelve feet (12') for Stairwell #2 from the south/rear wall.

Pursuant to Subtitle C, § 1504.1, relief from the penthouse setback requirements of Subtitle C, § 1502, may be granted by the BZA subject Subtitle X, Chapter 9 and subject to the following considerations:

- a) The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable or inconsistent with building codes;*

The Applicant is providing survivors of domestic violence a place to live for a short period of time, up to thirty (30) days, in order for them to recover from their trauma and make plans to find a more stable living arrangement. Many times these survivors include children of all ages, and although the average family has four (4) children, some clients arrive with as many as thirteen (13) minor children. Other shelter providers generally cannot accommodate large families and it is especially important for the only crisis (immediate) shelter to have capacity to prevent families from being separated. The design of the building allows for the provision of multiple dwelling units that can be joined together to accommodate large families. The placement of the stairwells along the back and side edge of the building and the minor encroachment of the penthouse within the setback areas, helps to preserve these spaces and to create a project that is efficient and affordable for the non-profit operator who is seeking funding from various public agencies to construct this community resource.

Housing large families is a significant challenge for shelter providers in DC. The majority of domestic violence shelters in DC provide single units or even units with shared restrooms, and survivors are sometimes forced to choose between sending children to stay with acquaintances or relatives, or overcrowding. Since some survivors do not have safe family or social networks, this can become a critical factor in preventing victims from leaving abusive situations, and can increase danger to survivors and their children. Without the ability to house larger families, through the flexible floor plan as proposed, and which requires the proposed location of the stairwells, some of these families may be forced to remain exposed to immediate danger. The ability to have a maximum number of flexible units (units that can be combined to create spaces for larger families if required) is critical to providing services for this underserved group.

In trying to create typical living environment, the Applicant is providing outdoor space on the rooftop where children and adults can feel secure and still be outside, as well as indoor community space. There are Code requirements to provide more than one ingress/egress to the rooftop, and the Applicant has designed the building to accommodate one stairwell and elevator in the center of the building and a second required stairwell on the east side of the building. These indoor and outdoor community spaces on the penthouse level are a key part of the programming for victims in residence. These spaces can allow for individual and group therapy sessions and other city services in a confidential but on-site environment. As such, these uses not only promote resident recovery and allow co-located services, they also preserve resident safety by minimizing the need for clients to engage these services in a less confidential or secure environment. The youth area will allow children who are residents of the facility a safe place for recreation, rather than on the residential or commercial street frontage or compromising the confidentiality of the site

It would be costly and unreasonable for the Applicant to move these stairwells (one, six feet (6'), and the other, twelve feet (12')) and the front and rear walls (each, two feet (2')) further into the footprint of the building. This would reduce the number of needed units and impact the areas available for secure on-site counseling and recreation.

In addition to the foregoing, relocation of the stairwells requires reconfiguration of the residential areas, the consequences of which include, without limitation, the following: i) Units

307, 407, and 507 would be eliminated, thereby reducing the total number of dwelling units to 27; ii) the reduction and substitution of studio units along the rear of the building limits flexibility that is necessary to accommodate individual clients and larger families; iii) relocation of the east/side stairwell creates additional corridor space which only serves one Unit on each floor; and iv) reduction in the total number of units impacts funding sources for completion of the Project.

b) The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;

The proposed design of Stairwell #1, along the eastern wall, would allow a stairwell that is twenty feet (20') long to be located along a wall that is sixty feet (60') long. It is located about midway along the wall and there is sufficient space from the front and rear walls to create an open appearance on the east facade. The materials to be used on the stairwell will be different than those of the lower portion of the wall so that it does not appear to be an extension of the building wall, and the parapet boundary will also be improved with a material bearing a distinctive color, to better identify the separation between the lower portion of the wall and the stairwell. Even if the stairwell were setback six feet (6'), the appearance from the ground or even a taller building would be much the same. The remaining elements of the rooftop, mainly the children's play area and the recreational spaces, are better designed with the stairwell along the building wall.

Similarly as to Stairwell #2, along the rear wall, the materials and top of the parapet wall will be different than the lower rear wall so that it does not appear as an extension of the wall itself. The color of the stairwells will be light to prevent them from standing out.

With respect to the front and rear walls of the penthouse, they are set back ten feet (10') and will be constructed with a different type and color of material. As such, the penthouse will not appear to be an extension of the building wall.

c) The relief requested would result in a roof structure that is visually less intrusive;

The proposed stairwells and front and rear penthouse walls do not result in a visually intrusive roof structure. There are only two (2) roadways adjacent to the property, Q Street NE on the north and First Street NE on the west. From the vantage point of Q Street, the side

stairwell is over 22 feet behind the front building wall (almost double the setback requirement) and the rear stairwell is not visible at all, while the front penthouse wall is already setback ten feet (10'). From the vantage point of First Street, (a) the side stairwell and rear of the penthouse are not visible at all, (b) the rear stairwell is more than thirty-five feet (35') from the street and the front and rear penthouse walls are already setback ten feet (10'). The property to the rear is being developed with a self-storage facility, and the adjacent use to the east is a surface level parking. Allowing these stairwells to be on the building line and for portions of the penthouse to encroach only two feet (2') within the setback area will not be an intrusive design element.

d) Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;

As discussed in paragraph (a) above, the Code requires that there be two (2) points of egress from the rooftop, and the lower levels are all designed to accommodate two (2) elevators and two (2) stairwells in an efficient manner. The shape of the lot, which is angled in the rear, creates some limitations on the footprint of the building as well as the need for the owner, a non-profit social service entity, to provide sufficient units to help meet the growing demand for its services. Further, as explained above, the ability to protect vulnerable families from violence requires flexibility in the design of the units, and efficiency in construction costs. Large families are often unable to stay together and the Applicant is working hard to avoid this situation. Having outdoor rooftop space also provides a safe place for children and adults to recreate, along with receiving counseling and other services in the community room. The cost to move these stairwells and penthouse walls and coincident loss of units and capacity will hamper the Applicant's ability to provide needed services.

- e) Every effort has been made for housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and*

All of the other setback requirements for the rooftop structures are satisfied.

- f) The intent and purpose of this chapter [Chapter 15 of Subtitle C] and this title [Title 11] shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.*

Neither the intent nor purpose of Subtitle C or the Regulations will be materially impaired by the two (2) stairwells being along the respective building walls and portions of the penthouse walls encroaching within the setbacks. Part of the intent of Chapter 15 is to limit penthouse spaces and to keep them within the required setbacks especially when the height of the building is maximized pursuant to the Height Act, Subtitle C, § 1504.2. In this case, because Q Street is a 90 foot right-of-way, the Height Act would allow a 90 foot tall building, but the Regulations limit the height to 60 feet and this is what the Applicant proposes. Further, the intent of the Regulations to promote the public health, safety, morals, convenience, order, prosperity and general welfare, is not materially impaired by the two (2) Code-required stairwells and minor encroachment of the penthouse walls at the front and rear of the Property. The existence of the stairwells and walls, in the proposed locations, will help the Applicant to provide a safe and secure outdoor environment for its clients and promote public health, safety and welfare.

The light and air of the adjacent properties will not be adversely affected by the penthouse stairwell locations. Rather, the Project is a freestanding structure that is not adjacent to any improvements. Indeed the area to the east of the Property, where Stairwell #1 will be located, is a surface parking lot. Light and air can still flow freely around this stairwell structure. Stairwell #2 is over twenty feet (20') from the rear Property line, and the property on this side is being planned as a self-storage facility. Light and air for the adjacent property will not be affected by the stairwell.

As the proposed stairwells are necessary to satisfy Code requirements, they are designed in a reasonable and efficient manner. The stairwells and penthouse wall placement also helps maximize outdoor play space and indoor communal and amenity space on the rooftop, will not result in a visually intrusive roof structure and will have no impact on the light and air

benefitting adjacent properties. Accordingly, the requested Special Exception Relief should be granted.

B. The Project Will Meet the General Special Exception Review Standards

Pursuant to Subtitle X, § 901.2, the BZA is authorized to grant special exceptions where the special exception:

(a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

The Project is in harmony with the general purpose and intent of the Regulations and the Zoning Map. The PDR-2 zone is intended to allow medium-density commercial uses that minimize adverse impacts upon adjacent, more restrictive zones. Provision of an emergency shelter and additional office space with the proposed penthouse stairwells and front and rear penthouse walls is a medium density commercial use which, although not directly aligned with production, distribution, or repair, certainly is within the scope of commercial density contemplated for such uses.

Furthermore, the emergency shelter will provide housing that is safe and secure, in a fashion consistent with the law and policies of the District. As mentioned above, the Regulations are intended to promote the health, safety and general welfare of the District. The shelter meets the criteria and requirements of the Regulations (except for the minor stairwell and penthouse setbacks) and will reduce pressure on existing District services, by providing a significant benefit to families faced with the choice of homelessness or the continued suffering of violence. In addition, the shelter will advance a District goal to render homelessness a rare, brief, and non-recurring experience. Thus, not only is the Project consistent with the uses within a PDR-2 zone, the Project also satisfies the other goals of the District with respect to addressing and eliminating homelessness. In fact, the Project is supported by the Metropolitan Police Department, the Attorney General of the District of Columbia, the Office of Victim Services and Justice Grants, Councilmember Charles Allen, the Local Initiatives Support Corporation, and relevant service providers in the District of Columbia, as evidenced by the Letters of Support contained at Tab 5 of the Application.

(b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and

The Project as proposed, will provide emergency shelter to families in need of assistance, and commercial office space. This mix of uses will complement one another and keep the area activated but not distracting to neighbors. There are some limited areas for outdoor activities, mostly on the rooftop, which should not interfere with the uses and activities on neighboring properties. There will be ten (10) on-site parking spaces (one (1) of which is an accessible space) and it is anticipated based on prior experience of the Applicant, that employees of the emergency shelter, and many families utilizing shelter services will utilize public transit. The Project is conveniently situated to address these needs because it is located within three (3) blocks of several bus stops which serve the 80, 90, 92, P3, P6, and X3 bus lines, and is located 0.5 miles from the NoMa-Gallaudet U. New York Avenue Metro Station. As the letter from The Traffic Group states, even with slightly more area than currently being proposed, the Project would only generate 8 or 9 peak hour trips and would not create an adverse effect on traffic conditions.

The Project is designed to provide enhanced security, through use of perimeter fencing and a security gate surrounding the rear parking area, and electronic security monitoring. The one-way driveway into the parking lot will also help to protect the safety and security of the residents. These facilities will help protect the clients as well as provide safety for the adjoining neighborhood.

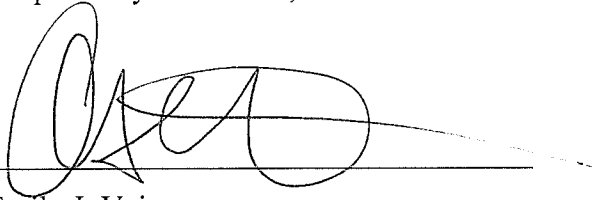
(c) Will meet such special conditions as may be specified in this title.

The requested Special Exceptions meet the criteria for granting by the BZA, as set forth above.

V. CONCLUSION

For all of the reasons stated above, the Project meets the applicable standards for special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the Application.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Emily J. Vaias', written over a horizontal line.

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