

# 1735-1737 10th St NW

Summary of Zoning Relief | 16 April 2018

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## Applicant Statement

Application of CDDC 1735-1737 10<sup>th</sup> St NW LLC, pursuant to 11 DCMR Subtitle X, Chapters 9 and 10 for a special exception from the parking requirements of Subtitle C § 701.5, and variances from maximum lot occupancy requirements of Subtitle E § 304.1, minimum rear yard requirement of Subtitle E § 306.1 and minimum side yard requirements of Subtitle E § 307.1, to construct two new, two-family flats in the RF-1 Zone at the premises 1735 and 1737 10th St NW (Square 0363, Lots 105 and 106).

## Summary of Relief

The Applicant is seeking special exception from the following regulations of Subtitle C, Chapter 7:

- § Table C 701.5

Use Category	Minimum Number of Vehicle Parking Spaces
Residential, Flat	1 per 2 dwelling unit

The Applicant is seeking area variances from the following regulations of Subtitle E, Chapter 3:

- § E 304.1 The maximum permitted lot occupancy in the RF-1 zone for semi-detached dwellings shall be 60% as set forth in table E § 304.1.
- § E 306.1 A minimum rear yard of twenty feet (20 ft.) shall be provided in the RF-1 zones.
- § E 307.1 When a new dwelling or flat is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

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## Background / Project Description

The properties are located at 1735-1737 10th St NW (Square 0363, Lots 105 and 106) in the Shaw neighborhood and sits within the ANC 6E boundary. The lots are zoned RF-1. The lot widths are 17 feet wide and depth is 61 feet. They are bounded by 10<sup>th</sup> Street NW to the west, a public alley to the south, and a narrow four-foot alley to the west, and a portion of the northern boundary line. The lots are located just south of S Street NW.

These lots are owned by the District of Columbia and were auctioned off to the public as part of the "Vacant to Vibrant" initiative of Mayor Bowser and DHCD. There is a requirement to provide "workforce" housing as part of the project. There will be total of four flats, two of which will meet the 120% MFI (median family income) requirements of the program and are required to be three-bedroom units.

The properties are twin lots of 1,037 square feet in lot area. This is well below the minimum lot area requirements for RF-1 of 1,800 square feet (Table E § 201.1). Subtitle C, Chapter 3 §301.1 allows for construction on non-conforming lots, however, it does not provide further relief from the development standards of the zone. These lots are exceptionally small and as such the strict application of the zoning regulations regarding side yard, rear yard, lot occupancy and parking requirements would result in a practical difficulty for the owner.

## Burden of Proof

### Special Exception Relief - Parking

Per Subtitle X, § 901.2 the Board of Zoning Adjustment is authorized to grant special exceptions, provided that the special exceptions:

- a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- c) Subject in specific cases to the special conditions specified in this title.

Furthermore, per Subtitle C § 703.2 the Board of Zoning Adjustment may grant a full or partial reduction in the number of required parking spaces, subject to the general special exceptions of Subtitle X, and the applicants demonstration of at least one (1) of the following:

- (a) Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;

The southern lot of the subject properties (Lot 105) has access to a public alley of at least 10' in width and therefore would require a standard size parking space be accommodated on the lot per Subtitle C § 701. However, at 17' wide, the physical constraints are such that a standard size (9'x18') parking space cannot be provided. The applicant proposes providing an 8' x 16' compact parking space, in accordance with Table C § 712.6 to meet the parking requirements of Table C § 701.5. This will be in harmony with the purpose and intent of the Zoning Regulations and will not adversely affect the neighboring properties.

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The additional parking space, though compact rather than standard size, will further mitigate neighbor concerns by providing additional parking where possible in the neighborhood.

### Burden of Proof – Area Variances

Area variances are requested from the maximum lot occupancy requirements of Subtitle E § 304.1, minimum rear yard requirements of Subtitle E § 306.1 and minimum side yard requirements of Subtitle E § 307.1.

#### § E 304.1 Lot Occupancy Relief:

The strict application of the lot occupancy would result in exceptionally small building area due to the size of the lots and would prove to be a practical difficulty to configure a reasonable three-bedroom workforce housing unit as mandated by the “Vacant to Vibrant” program. The request of lot occupancy relief to 70% would allow for building area of 725.9 square feet which would more readily accommodate the program requirements.

#### § E 306.1 Rear Yard Relief:

Relief from the strict application of the rear yard requirement of 20’ would allow for building area to accommodate the 3-bedroom units and the request to 70% lot occupancy. The resulting rear yard would be 18.3’ or a minor, 8.5% deviation from the minimum rear yard requirement. Additionally, there is a four-foot public alley along the rear property lines which further mitigates the minor deviation requested.

#### § E 307.1 Side Yard Relief:

The strict application of Subtitle § E 307.1 would require a five-foot setback for Lot 105 along southern property line abutting the 15-foot public alley. This would result in an exceptionally narrow, 12-foot wide building and would be an undue hardship and a practical difficulty to accommodate 3 bedrooms in one of the flats on that lot.

With respect to variances, the Board of Zoning Adjustment has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (formerly codified at D.C. Official Code § 5-424(g)(3) (2012 Repl.)), “[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.”

As noted above, the burden of proof for variances is three-fold. The Applicant must demonstrate the following:

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1. **Is the property is affected by an exceptional size, shape, topography or other exceptional situation or condition?**

*Response: The property is exceptionally narrow and small relative to the zone in which it sits. It predates the current zoning regulations and is non-conforming with regard to lot size minimum widths and area requirements. That constitutes an exceptional condition.*

2. **Would the strict application of the zoning regulations would result in practical difficulty?**

*Response: Yes. The property is exceptionally narrow and the strict application of development standards with regard to lot occupancy, side and rear yard requirements would result in small units with limited buildable area. Furthermore, the Vacant to Vibrant program mandates three-bedroom units. The limited area available as a matter-of-right would make achieving three-bedroom units unduly burdensome. This results in a practical difficulty for the Applicant.*

3. **Would granting the relief be a substantial detriment to the public good or impairment of the zone plan?**

*Response: The requested variance relief from the side yard setbacks, lot occupancy and rear yard, will not adversely affect the public good. The requested variances are minor in nature and have little impact on the surrounding properties beyond a matter of right development scenario. The planned project will provide two, two-unit flats which is consistent with the zone. For these reasons, the requested relief would not be a detriment to the public good or the zone plan.*

## Conclusion

For the reasons noted above, this application meets the requirements for special exception and variance approval by the Board of Zoning Adjustment and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,



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