

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

Application of  
1729 T Street TF LLC

BZA Application No: \_\_\_\_  
ANC: 2B08

**STATEMENT OF THE APPLICANT**

**I. Nature of Application**

This is an application by 1729 T Street TF LLC(the “**Applicant**”) to the District of Columbia Board of Zoning Adjustment (“**Board**”) for variance relief from the strict requirements of the Zoning Regulations to permit the construction of a five-unit multifamily residential building (the “**Project**”) on the property located at 1729 T Street, NW (Square 151, Lot 0015, or the “**Property**”). The Property is located within the RA-2 zone. This application seeks variance relief pursuant to Subtitle X, Section 1002.1 from the closed court, floor area ratio (“**FAR**”), and lot occupancy requirements of the RA-2 zone. See 11-F DCMR §§ 202.1, 302.1, and 304.1. The Applicant seeks the instant relief to allow the Project (i) to include a closed court with an area and a width below the respective minimum requirements in the RA-2 zone, (ii) to be constructed to an FAR of 2.3, in excess of the maximum FAR of 1.8 in the RA-2 zone, and (iii) to occupy 70 percent of the Property, in excess of the 60 percent lot occupancy requirement of the RA-2 zone. The Project conforms to the Zoning Regulations in all other ways.

Because the Project is a new building within a District of Columbia Historic District, it has sought and obtained concept approval for the design of the building from the District of Columbia Historic Preservation Review Board (“**HPRB**”) as of March 2018.

**II. Jurisdiction of the Board**

The Board has jurisdiction to grant the relief requested pursuant to Subtitle X, Section 1002.1 of the Zoning Regulations.

### **III. Information Regarding the Property and Project**

#### **A. Description of the Property**

The Property is located in the Striver's Section Historic District midblock on T Street, NW between 17<sup>th</sup> and 18<sup>th</sup> Streets, NW. There is a public alley at the rear of the Property which provides access to the Property. The alley is approximately 10 feet wide. The Property measures approximately 2000 square feet in land area. The Property is currently improved with an attached two-story single family residence and surface parking. The existing structure on the Property was constructed in the late 1970s and is not a contributing building in the Historic District.

#### **B. Description of the Surrounding Area**

The Property is surrounded by other multifamily uses. Immediately to the east is a three-story multifamily cooperative that is a contributing building in the Historic District. Immediately to the west is a four-story multi-unit residential building that is also a contributing building in the Historic District. All of the other buildings along both sides of this block of T Street, NW are residential. Similarly, all of the other buildings to the north of the alley at the rear of the Property are residential. Further to the west, 18<sup>th</sup> Street, NW in the vicinity of the Property contains a mix of commercial uses and residential uses. Two blocks to the north, U Street, NW in the vicinity of the Property also contains a mix of residential and commercial uses.

The entirety of the block containing the Property, except for the four lots closest to 18<sup>th</sup> Street, NW, is within the RA-2 zone, which is the prevailing zone designation for the residential areas surrounding the Property.

Significantly, many of the residential buildings in the RA-2 zone surrounding the Property do not conform to the now-applicable FAR and lot occupancy requirements of that zone.

The 2006 Comprehensive Plan's Generalized Land Use Map designates the Property, as well as much of the surrounding area as Neighborhood Conservation Areas. Neighborhood Conservation Areas are described as being generally residential with only modest-scale, infill type housing development. 10-A DCMR § 223.4. The Comprehensive Plan's Future Land Use Map designates the Property, as well as much of the surrounding area as Moderate Density Residential, which is defined as appropriate for 2-4 unit residential buildings, rowhouses, and low-rise apartment buildings. 10-A DCMR § 225.4.

C. Description of the Project

The Project contains two 3-bedroom units, one 2-bedroom unit, and two studio units. The Applicant proposes to construct two surface vehicular parking spaces at the rear of the Property. The Project features balconies for each of the above-grade units plus landscaping and green space at the street level and on the Project's roofs. The total gross floor area of the Project is 4,600 square feet.

Apart from the requested areas of relief, the Project satisfies the requirements of the RA-2 zone. The Project's height is approximately 50 feet, which is consistent with the 50 foot height limit in the RA-2 zone. 11-F DCMR § 303.1. The Project provides a 30 foot rear yard, which is in excess of the RA-2 zone requirement for a rear yard of 4 inches per foot of building height, or approximately 15.5 feet for the Project given its height. *Id.* § 305.1. The Project does not include side yards and none are required. *Id.* § 306.2(b). The Project has a green area ratio of 0.40, which satisfies the minimum requirement in the RA-2 zone. *Id.* § 307.1. The Project includes the two vehicular parking spaces, whereas only one is required. 11-C DCMR § 701.5. Bicycle parking is not required because the Project has fewer than eight units. *Id.* § 802.1.

All vehicular access to the Project is via the alley at the rear of the Property. An accessible entrance is also located at the rear of the Project. The front of the Project is constructed to the front property line in line with the façades of the immediately adjacent buildings and consistent with the location of front façades for virtually every other residential building on the block. Stairs leading from the Project's common front entrance along with landscaping are in the public right of way. The Applicant is working through the public space process to finalize the details of the landscaping in front of the Project. As noted above, the Project has already received concept approval from HPRB for its design.

D. Previous Decisions of the Board

The Board has recently approved a request substantially similar to the instant application. In BZA Case No. 19188, the Board granted FAR, lot occupancy, and court relief for new construction of a four-story multifamily residential building located two doors to the east of the Property. Although the particular circumstances affecting the Property are different than those affecting the property in the above-cited case, the requested relief in this case is virtually identical to that previously granted by the Board to a property just two doors away. There are otherwise no prior decisions of the Board applicable to development of the Property.

E. Community Engagement

The Applicant has undertaken significant community and neighbor outreach as part of this application. The Applicant has met and communicated about the Project with the immediate abutters and will continue to meet with them throughout the development process. The Applicant has also met with and presented to the Zoning, Preservation, and Development Committee of ANC 2B as well as with the single member district representative for the area including the Property. The Applicant expects to present to the full ANC prior to the public hearing on this case.

#### **IV. Description of Variance Relief Requested**

This application seeks three areas of variance relief. Pursuant to Subtitle X, Section 1001.2, the Board may grant a variance from the strict application of the area requirements of the Zoning Regulations. The Applicant requests area variances to allow: (i) a court that is smaller in area than required under the RA-2 zone as the Project's proposed closed court has a total area of 90 square feet where RA-2 zone requires a minimum area of 350 square feet and a minimum width of 6 feet where the underlying zone requires a minimum width of 15 feet; (ii) an additional 0.5 in overall FAR (i.e., a total FAR of 2.3 where 1.8 is otherwise the maximum); and (iii) an increase in lot occupancy of 10 percent (i.e., a total lot occupancy of 70 percent where 60 percent is otherwise the maximum).

#### **V. Satisfaction of Standards for Variance Relief**

An application for area variance relief must demonstrate that: (i) where, 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, (ii) the strict application of the Zoning Regulations results in a practical difficulty to the owner of such property, and (iii) the granting of the variance does not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the Zone Plan as embodied in the Zoning Regulations and the Zoning Map. See 11-X DCMR §§ 1000.1, 1002.1(a). The Applicant seeks area variance relief from the court, FAR, and lot occupancy requirements of the RA-2 zone. This application satisfied the foregoing standard for such requested relief.

A. The Property is affected by Exceptional Conditions.

The Property is affected by exceptional conditions by virtue of (i) its narrowness and overall size, (ii) the non-conforming lot occupancy of the immediately adjacent buildings, (iii) the presence of an existing nonconforming light well serving one of the immediately adjacent buildings, and (iv) the Property's location in a Historic District immediately adjacent to two contributing structures. Together, these conditions create unique conditions in satisfaction of the first prong of the variance standard. The Court of Appeals held in Clerics of St. Viator v. D.C. Bd. of Zoning Adj., 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the property, not just the land. The Court in Monaco v. D.C. Bd. of Zoning Adj., 407 A.2d 1091 (D.C. 1979) went even further and noted that the exceptional situation or condition is not limited to the land or the physical improvements on the land, but applies also to the history of the property. Furthermore, the Court of Appeals held in Gilmartin v. D.C. Board of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property but may be the result of a confluence of factors. Id. Finally, it is not necessary that the Property be unreservedly unique. Rather, applicants must prove that a property is affected by a condition that is unique to the property and not related to general conditions in the neighborhood.

- i. Narrowness and Size: The Property is only 20 feet wide and 2000 square feet. By contrast, two of the immediately neighboring lots are 40 feet wide and 4000 square feet. The lot immediately to the northwest of the Property is approximately 60 feet wide and 6000 square feet. Although the Property's width and size are not unreservedly unique among the lots on the block on which the Property is located, those dimensions are unique in the context of the immediately surrounding lots and contribute to the overall confluence of factors that create an exceptional condition for the Property.
- ii. Non-conforming Adjacent Buildings: The Property is surrounded by existing buildings with non-conforming conditions. The existing building immediately to the west occupies virtually 100 percent of the lot, far in excess of the current 60 percent lot occupancy requirement. The buildings immediately to the east occupy more than

80 percent of their respective lots. The effect of these existing non-conforming conditions is that the three neighboring, nonconforming buildings extend much farther to the rear of their lots and therefore limit light penetration onto the Property. The building immediately abutting to the west is one of only two buildings on the entire block that occupies such a high percentage of the lot. (The other is a corner unit that fronts on the commercial 18<sup>th</sup> Street, NW corridor). The Property's relationship to the existing nonconforming abutting buildings makes it entirely unique.

- iii. Existing Neighboring Light well: The existing building immediately to the east of the Property has an existing light well. That existing light well—itsself a closed court—does not conform to the dimensional requirements of the Zoning Regulations. Although the Property is not entirely unique in its adjacency to a nonconforming closed court, that condition, combined with others serves to create an overall unique condition at the Property.
- iv. Historic District Contributing Structures: As noted above, the Property is located within a Historic District and surrounded on either side by structures that are considered contributing buildings in that District. Because the adjacent structures are contributing buildings it virtually guarantees that the nonconformities will remain in place in perpetuity. Although there are numerous lots within the Historic District, this condition serves to distinguish the Property from lots in the RA-2 zone more generally.

In combination, the four factors above—narrowness and area, adjacency to nonconforming buildings, adjacency to a nonconforming light well, and presence in a Historic District adjacent to contributing buildings—results in the Property being burdened by an exceptional condition. Accordingly, this application satisfies the first prong of the variance test.

**B. Strict Application of the Zoning Regulations Results in a Practical Difficulty as a Result of the Exceptional Conditions Affecting the Property**

In this case, strict application of the (i) closed court, (ii) FAR, and (iii) lot occupancy provisions in the Zoning Regulations would cause practical difficulty to the Applicant.

- i. Closed Court: The exceptional conditions of the Property described above create practical difficulties upon the Applicant if the court width and court area requirements of the Zoning Regulations were to be strictly applied to the Property.

The narrowness of the Property—just 20 feet in width—renders the Property virtually unable to provide a closed court of conforming width, which must be at a minimum 15 feet wide. A conforming court would leave just 5 feet, barely wide enough only for a corridor and for no other internal use. Complying with the minimum area requirements for a closed court is similarly difficult given the conditions applicable to

the Property. In the RA-2 zone, a closed court must have a minimum area of 350 square feet. Such an area is equal to 17.5 percent of the total area of the Property. Any conforming closed court would create an unbuildable donut hole in the middle of the Property and result in interior inefficiencies that constitute a practical difficulty.

Adjacent buildings, constructed prior to the implementation of either the 1958 or the 2016 Zoning Regulations include non-conforming courts. Specifically, the property at 1725 T Street NW has a non-conforming closed court which faces the Property, and which creates a unique condition for both properties. The most space-efficient and cost-effective matter-of-right design solution is to build up to the property line at the adjacent building's non-conforming closed court. However, this approach would have a detrimental impact on the light and air of the adjacent property, which uses the "light well" created by the existing non-conforming court to mitigate its excessive depth.

While a conforming closed court can provide light and air for large or deep building, it is not practical for a building on a small lot the size of the Property. The minimum width of 15 feet and minimum area of 350 square feet yields a closed court that measures 15 feet by x 23 feet, 4 inches. When the zoning-compliant court is overlaid on the maximum lot occupancy 60 percent, the resulting floor plate is separated into two halves, with a "neck" that can be no more than only 5 feet wide because the Property itself is only 20 feet wide. This typical floor configuration contains an excessive amount of internal circulation resulting in an inefficient unit configuration. In addition, the amount of exterior envelope increases significantly beyond that of a typical infill building.

In addition to the Property's narrowness and area creating practical difficulties in complying with the court requirements, the presence of the existing light well on the adjacent property also creates a practical difficulty for the Applicant. To optimize light penetration and the value of the existing light well for both that building that it serves and the subject Property as well as interior efficiency, the Project's light well should be located to complement the existing one. The Project proposes such an optimized scenario, albeit one that does not conform to the closed court dimensional requirements. Accordingly, the Project requires a variance from the closed court requirements to proceed.

- ii. FAR: The Property's exceptional conditions also create practical difficulties in complying with the FAR limits of the RA-2 zone. The RA-2 zone allows a maximum FAR of 1.8.

The narrowness of the Property combined with the presence of the existing nonconforming buildings adjacent to the Property create practical difficulties in constructing a building in compliance with the FAR limit. The Property's only exposure to light is at its narrowest frontages, Yet, the two immediately neighboring buildings extend much farther to the rear of the lot than current zoning allows. As a result, the rear of the Property experiences a cave-like condition with little access to light or air on either side. To allow the rear of the building to experience some

exposure to daylight, the Project must be extended to the rear to overcome the conditions created by the adjacent nonconforming structures.

The existing light well also creates practical difficulties in complying with the FAR requirements. The practical necessity of locating a new light well on the Property with the existing one reduces interior efficiencies in the residential unit layouts. To recapture that lost efficiency a modest amount of additional FAR is required.

The presence of the non-conforming closed court/light well displaces the area equivalent of an interior den or bedroom at each level. To accommodate this displacement, the building envelope is expanded both upwards and to the rear. In order for the upper floor addition to be practical, it needs to be large enough for a bedroom and bathroom.

Finally, the location of the Property within the Historic District and adjacent to two contributing structures creates practical difficulties with respect to complying with the FAR limit. To respect the historic cornice line of the two abutting properties, the Project's top floor is set back from the Property line by approximately 16.3 feet. This setback accomplishes the historical design objectives but reduces interior efficiencies. The location of the existing light well (and the need to align the new light well) also partially contributes to the decrease in interior efficiency resulting from the top floor setback.

As a result of these practical difficulties in complying with the FAR limit, the Project requires a variance to allow additional gross floor area equal to an additional 0.5 of FAR.

- iii. Lot Occupancy: The confluence of exceptional conditions affecting the Property also create a practical difficulty in complying with the lot occupancy requirements of the Zoning Regulations. The RA-2 zone allows a maximum lot occupancy of 60 percent.

As noted above, the Property's narrowness and the configuration of the adjacent existing buildings requires providing light to the interior of any building on the property via light wells. The dimensions and location of the existing light well dictates, for pragmatic and architectural reasons, installing a light well of similar dimensions on the Property in alignment with the existing light well. The proposed light well counts against the lot occupancy of the Project making it practically difficult to comply with the lot occupancy standard mandated in the RA-2 zone.

Finally, the Property's location next to the nonconforming historic structures necessitates extending the Project to the rear to achieve improved light for the rear units.

Taken together, the unique conditions of the Property create a practical difficulty in complying with the lot occupancy requirements and require a lot occupancy variance on the order of approximately 10 percent of the overall lot area.

As a result of the exceptional conditions affecting the Property, strict application of the closed court, FAR, and lot occupancy requirements creates a practical difficulty for the Applicant in developing the Property.

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

The Board can grant the relief requested in the instant application without any detriment to the public good and without impairing the intent, purpose, or integrity of the Zone Plan. The Zone Plan is embodied in the Zoning Regulations and Zoning Map. See 11-X DCMR § 1000.1. The Project provides the kind of infill, multifamily residential development the Zone Plan encourages, revitalizing a currently underutilized site.

- i. No Substantial Detriment to the Public Good: The requested relief facilitates the Project, which does not detriment the public good. Rather, the Project contributes to the public good by providing four net new housing units on the Property without displacing any existing residents. In addition, three of the Project's new residential units are "family-sized", two of which contain three bedrooms. These two- and three-bedroom units recognize the public policy objectives of developing larger units to give families with children an opportunity to remain in the District. The Project's studio units recognize the demographics of many of the District's new younger residents and provides a homeownership opportunity for a one- or two-person household at a lower-cost than a family-sized unit.
- ii. No Substantial Impairment to the Intent and Purpose of the Zone Plan: The intent and purposes of the Zoning Regulations, which in conjunction with the Zoning Map, embody the Zone Plan, are to promote the "public health, safety, morals, convenience, order, prosperity, and general welfare," 11-A DCMR § 101.1, in consideration of the "character of the respective zones; . . . the suitability of each zone for the uses permitted in each zone . . . ; [the] encouragement of the stability of zones and of land values in those zones; and . . . [the] requirement that zoning shall not be inconsistent with the [Comprehensive Plan]." Id. § 101.2.

The Project is located in an area served by transit and accommodating to pedestrians, which promotes public health. The Project adds "eyes to the street" and removes an older, vacant structure, all of which advances public safety. The Project is being undertaken in conjunction with a robust community outreach effort, which advances the public morals of public participation in the land use permitting process. The requested relief facilitates the Project, which promotes the orderly and prosperous redevelopment of an underutilized lot. The Project replaces a functionally-obsolete single-family dwelling with five units, two of which contain three bedrooms. The

Project adds to the property tax base in satisfaction of the general welfare component of the intent and purposes of the Zoning Regulations.

The moderately-dense multifamily residential use proposed for the Project is suited to the character of the RA-2 zone, which is intended for moderate-density residential development. 11-F DCMR § 300.3. The uses intended for the Project are expressly permitted in the RA-2 zone, and the redevelopment of the Property encourages the stability of land values that might drop with the Property remaining vacant or becoming dilapidated through underinvestment.

Finally, the Project is not inconsistent with the Comprehensive Plan. The Project is in accordance with the Neighborhood Conservation and Moderate Density Residential designations on the Comprehensive Plan's Generalized Policy and Future Land Use Maps, respectively. The Project advances numerous individual policy objectives of the District Elements and Area Elements of the Comprehensive Plan. See Exhibit J attached herewith.

- iii. No Substantial Impairment to the Integrity of the Zone Plan: The Project does not impair the integrity of the Zone Plan. The Zone Plan dictates moderate-density residential uses for the Property, and the Project includes such uses at such densities. The modest relief from the court, FAR, and lot occupancy requirements is designed to be as minimal as possible in light of the objective of establishing a successful project on the Property.

For the foregoing reasons, the requested relief for the Project may be granted without any detriment to the public good and without impairing the intent, purpose, or integrity of the Zone Plan as set forth in the Zoning Regulations and Zoning Map.

## **VI. Conclusion**

The Project satisfies the regulatory requirements for variance relief from the court, FAR, and lot occupancy provisions of the Zoning Regulations, and for the above reasons, the Applicant is entitled to the variance relief requested in this case.

Respectfully submitted,  
Goulston & Storrs PC

/s/ Christine A. Roddy  
Christine A. Roddy

/s/ David A. Lewis  
David A. Lewis