

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

APPLICATION OF:

Zeta Phi Beta Sorority, Incorporated

for a Special Exception Under 11-U DCMR § 320.1(a) to allow for the use of a residential building in the RF-2 District by a non-profit organization at 1461 S Street, N.W. (Square 206, Lot 25) and an area variance from 11-U DCMR § 203.1(n)(2) to allow for the non-profit use in a building of less than 10,000 square feet in GFA

BZA Case No. 20104

Hearing Date: September 11, 2019

ANC 2B

APPLICANT’S SUPPLEMENTAL PRE-HEARING STATEMENT

I. Introduction

Zeta Phi Beta Sorority, Incorporated (“Zeta Phi Beta”), has submitted an application for a special exception to allow the use of a residential building in the RF-2 District by this non-profit organization at 1461 S Street, N.W. (Square 206, Lot 25) and an area variance from 11-U DCMR § 203.1(n)(2) to allow for the non-profit use in a building of less than 10,000 square feet in GFA. Office of Planning Staff stated that they could not support the area variance and the Applicant submits the following supplemental statement in response.

II. Arbitrary and Outdated Measurement

The 10,000 square foot requirement was intended for application in the single-family residential zones. It is in those districts where residential structures of such a large size are located. In the subject case, the property is a row house in the RF-2 zone. Despite being on the larger end of the spectrum for a row dwelling, the building has a GFA of less than 10,000 square feet. The Applicant submits that this is almost an impossible standard to meet in the RF-2 zone.

In Board of Zoning Adjustment (“BZA” or the “Board”) Case No.13419, the Board commented on the outdated 10,000 square foot figure, when it said, “the 10,000 square feet figure is arbitrary” and “by today’s standards, 5000 square feet is large.”

III. Non-Profit Use Deserves BZA’s Application of Discretion

Given Zeta Phi Beta’s history and contribution to the surrounding community, this non-profit use is especially deserving of the Board’s discretion in granting the requested area variance. This discretion is well-established and has been applied in similar circumstances.

In BZA Case No. 15555, the Board noted its discretion when applying this standard when it stated, “the 10,000 square-foot figure is arbitrary, and that its purpose was to establish a standard, not an inflexible rule.” As set forth in the Applicant’s Pre-Hearing Statement, Zeta Phi Beta is especially deserving of this flexibility. The sorority was founded on January 16, 1920 at Howard University. Since then Zeta Phi Beta has worked diligently to effectuate positive change in the community through their volunteer efforts, partnership and programs to educate to educate the public, support charities and encourage legislation that promote civic and social progress.

This sentiment was echoed in BZA Case. No. 16916 when the Board granted the application of Friends Committee on National Legislation for an area variance to allow for the enlargement of an existing non-profit office space. There, the Board said, “the Board may apply a more flexible standard for determining hardship because the applicant is a nonprofit entity devoted to public service.” A stated above, Zeta Phi Beta is such an applicant and should benefit from the Board’s discretion.

IV. Previous Approvals and Relief through Special Exception

In addition to the cases already cited, the BZA has approved applications to allow non-profit uses like that proposed here countless times in the past. In BZA Case No. 19131, Delta

Sigma Theta Sorority, Incorporated sought and secured an area variance from 10,000 square foot requirement.

In addition, the Board has often reviewed these requests under less stringent standards. In BZA Case No. 16762, the Central American Resource Center originally sought a use variance to establish a non-profit office in the R-5-B zone. The Office of Planning recommended that the Applicant pursue the less stringent special exception relief and the application was approved.

Moreover, in BZA Case 13419, the Applicant seeking an area variance from the 10,000 square foot requirement in the R-4 zone was granted relief when a specific non-profit organization *had not even been designated* at the time of the hearing. Here, the Applicant is an established organization founded in the District of Columbia and an appropriate and deserving recipient of the Board's discretion.

V. Potential Permitted Use Does Not Preclude Granting of the Area Variance

Planning Staff has stated that its failure to support the proposal is based on the fact that, if not purchased by a single owner, the building could be divided into separate dwelling units. As stated by the Board in BZA Case No. 13419, "the fact that other R-4 uses could be put into this building does not preclude this [non-profit] use." The Board went on to say that it was of the opinion that "conversion to housing units would over-use [sic] the building and cause irreparable damage." The use of the subject property as separate condominium units would also have the undesired effect of increased traffic and parking on the property at all hours of the day. The Applicant is proposing to keep the basement and carriage house available for residential use and use the first and second floors for the office space. This allows for the continued residential use of the property in accordance with the goals and priorities set forth in Chapter Five (Housing) of the District's Comprehensive Plan. The smaller dwellings within the row dwelling will be

offered at a significantly lower cost than the building as a whole rendering it more accessible. Because the office employees will vacate the property at 5:00 p.m., resulting parking and traffic to and from the building will be minimized.

VI. No Detriment to Public Good

The hardship here for the Applicant is the limited space available in close proximity to its headquarters at 1734 New Hampshire Avenue, N.W. for ancillary office use. No structures of 10,000 square feet or more are available and the personnel in the proposed office need to work in conjunction with those at the main building. The Applicant will provide testimony to this fact at the September hearing. The Applicant submits that this hardship merits the more flexible standard for determining hardship given the Applicant's dedication to public service.

Finally, the common thread throughout all of the above-cited cases where the non-profit use has been allowed is the Board's confidence in and Applicant's demonstration that, pursuant to 11-X DCMR § 1000.1, "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."

Here, there is only benefit to the surrounding community. The Applicant is submitting the attached letter of support (Exhibit 1). The Applicant hosted a meet and greet at the property on August 7, 2019. The neighbors who attended requested that the Applicant provide a petition that could be circulated to demonstrate support. The Applicant will bring the signed petition to the hearing. As stated in the Pre-Hearing Statement, there will be no adverse impacts and the office use of the first and second floors will be limited to five to six employees with hours of operation from only 9:00 a.m. to 5:00 p.m. The Applicant will be presenting the applications to the Zoning,

Preservation and Development Committee of Advisory Neighborhood Commission 2B on September 4, 2019 and then will await the full ANC's recommendation on September 11, 2019.

VII. Conclusion

For the above-stated reasons, the Applicant respectfully submits that the proposed area variance should be granted and asks that the Board approve the applications.

Respectfully submitted,

By: 

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Date: August 19, 2019

EXHIBIT 1

August 9, 2019

Board of Zoning Adjustment for the District of Columbia
441 4th Street, N.W., Suite 200S
Washington, D.C. 20001

Re: BZA Case No. 20104
SE/ Variance Applications – Zeta Phi Beta Sorority, Incorporated
Use of Property at 1461 S Street, N.W. for Non-Profit Office Space

Chairman Hill and Members of the Board:

My name is David Rubenstein and I reside at 1453 S Street, NW. I am writing to let you know that I have no issues with Zeta Phi Beta's applications that will allow the sorority to utilize the first and second floors of the property located at 1461 S Street, N.W. as office space.

I believe that the use will have no detrimental impact to the enjoyment of my own home or the surrounding community. In my dealings thus far with Zeta Phi Beta, they have proven to be responsive to community concerns and interested in meeting and establishing relationships with the neighbors here. I contacted the Applicant regarding a sump pump that was draining into the alley and creating icy, slippery and therefore, dangerous conditions there and on the adjoining sidewalk. The matter has been resolved.

I am therefore comfortable with the request for approval of the special exception and variance applications submitted by Zeta Phi Beta.

Sincerely,



David R Rubenstein