

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

Application of  
DC Public Library

BZA Application No.  
ANC: 6B 03

**STATEMENT OF THE APPLICATION**

**I.**

**Nature of Application**

This is an application by the DC Public Library (the “DCPL” or the “Applicant”) for special exception and variance relief to expand its existing, historic Southeast Library at 403 7<sup>th</sup> Street SE (Square 875, Lot 1) (the “Property”). The Property is located in the RF-1 Zone. The application requests (i) a special exception pursuant to 11-C DCMR § 1610.2 to exceed the 40% lot occupancy limitation of 11-C DCMR § 1603.4 for a public library and (ii) variance relief from the pervious surface requirements of 11-E DCMR § 204.1. The project will conform with the Zoning Regulations in all other ways.

**II.**

**Jurisdiction of the Board**

The Board has jurisdiction to grant the special exception relief pursuant to 11-X DCMR § 901.1 and the variance relief requested pursuant to 11-X DCMR § 1000.1.

**III.**

**Description of the Property and Project**

A. Description of the Property and Surrounding Area

The Property is a roughly triangular parcel that is bounded on the north by D Street, the south by South Carolina Avenue, the east by 7<sup>th</sup> Street and the west by row houses. All three street frontages of the Property include significant green space between the Property line and the

sidewalk adjacent to the street, an area known as “public parking.” The public parking slopes up to the Property, which sits at a higher elevation than the adjacent streets. The public parking area is fenced and landscaped. The Property contains approximately 6,431 square feet of land area.

The Property is the site of the Southeast Branch Library (the “**Library**”). Built in 1922, the Library was designed by noted librarian architect Edward L. Tilton and funded by Andrew Carnegie. It has continuously served the Capitol Hill community for almost 100 years. The Library features an iconic entry staircase from its 7<sup>th</sup> Street frontage to its main entrance which is framed by Corinthian-style columns. The Library is one of only four Carnegie-funded libraries in the District. In March of 2021, the District of Columbia Historic Preservation Review Board (“**HPRB**”) designated the Library as a historic landmark, which the District’s Historic Preservation office supported.

The Library is located in the Capitol Hill neighborhood and surrounded largely by residential uses, mostly row houses and some multi-family apartment buildings, to the south and west. To the north and east of the Property are some neighborhood-serving retail uses, such as a pharmacy, and larger apartment buildings. The Property is directly across 7<sup>th</sup> Street from the Eastern Market Metrorail Station and is served by several bus lines running along Pennsylvania Avenue two blocks to the north of the Property. There are also several parks within a few blocks of the Property, including Market Park, Marion Park, Providence and Folger Parks, and Seward Square.

#### B. Description of the Project

Given its age, the Library is in significant need of modernization and expansion. The current facility is limited in its ability to provide an expanded collection to match the growing population as well as community amenities, including computer stations, study lounges, and

meeting rooms. DCPL proposes to fully modernize and rehabilitate the Library. The plans include a below-grade expansion, and a rear addition (the “**Project**”).

DCPL’s focus in developing the Project plans has been preservation of the existing historic landmark while providing badly needed additional space. The Project will support additional space for seating, meetings, and studying; expanded collections and computers; and enhanced accessibility. Given the historic nature of the Library, DCPL is extremely constrained in its ability to expand vertically. Therefore, the Project is focused largely on modernizing the existing building, expanding the Library below grade within the Property, and constructing a vault below the public parking space adjacent to South Carolina Avenue.

While the aforementioned changes do not affect the building’s footprint, the Project must also include core circulation space and mechanical equipment to service the modernized Library. Therefore, DCPL proposes to construct a small addition on the west side of the Library (the “**Addition**”). The Addition will include a below-grade level, a ground level, and an upper level. The Addition will cut into the public parking area off of South Carolina Avenue to provide ADA-accessible access at the ground level. The main entrance off of the 7<sup>th</sup> Street staircase opens directly onto the upper level. The southern half of the Addition provides the core circulation, including an elevator bay and staircase, to provide ADA-compliant access to each floor of the Library. The southern half of the Addition also includes the restroom facilities needed to serve the community. The northern half of the Addition serves as the mechanical space for the Project, with electrical and other mechanical rooms on the lower level, a mechanical courtyard on the ground level, and some mechanical equipment on the upper level. All mechanical equipment will be screened and has been designed to limit an impact on the adjacent neighbors.

#### IV.

##### **Description of Relief Requested**

Pursuant to 11-C DCMR § § 1603.4, a public library in the RF-1 Zone is limited to a lot occupancy of 40%. However, the existing Library occupies approximately 65% of the Property, which is nonconforming as to the lot occupancy requirement. In order to modernize the Library, the Project will need to occupy 92% of the Property. 11-C DCMR § 1610.2 allows the Board to grant special exception approval for a public library for deviations from the development standards. Therefore, DCPL requests special exception approval to occupy 92% of the Property.

Additionally, pursuant to 11-E DCMR § 204.1, a non-residential development in the RF-1 Zone must provide 50% of the property as pervious surface. The existing Property only includes approximately 17% of the site as pervious which is not surprising since the Library was constructed decades before there was a pervious surface requirement. Pursuant to 11-C DCMR § 501.2(d), the pervious surface requirements will now apply to the Project since the lot occupancy is being expanded by more than 25%. Given the constraints of the Property, the Project is only able to provide a pervious surface of 4.4%. Therefore, DCPL requests an area variance from the pervious surface requirements for the Project.

#### V.

##### **Satisfaction of Standards for Relief**

###### A. Special Exception Approval – Lot Occupancy

Under 11-X DCMR § 901.2, in order to obtain special exception relief, the applicant must show that the requested relief will be in harmony with the intent and purpose of the Zoning Regulations and Zoning Maps and will not adversely affect neighboring properties. The specific

provisions of 11-C DCMR § 1610.2 do not have any additional conditions for approval of an increased lot occupancy for a public library beyond these general special exception standards.

The proposed lot occupancy is in harmony with the Zoning Regulations and Map. The Project expands the Library to the western Property line. This footprint is necessary to accommodate the minimum area needed for the circulation, restrooms, and mechanical space. The Addition is as limited as possible while still providing the necessary support for the Project. Thus, the increased lot occupancy is necessary for two zoning-compatible reasons – (1) to respect the existing historic landmark with only a limited Addition and otherwise below-grade expansion, and (2) to provide accessible entrances and access to the entire library and energy-efficient mechanical systems to serve the community. Therefore, the increased lot occupancy is in harmony with the Zoning Regulations and Map.

The Project, including the increased lot occupancy, will also not adversely affect the neighboring property owners. First, DCPL has been coordinating significantly with the community, including the two property owners directly to the west, regarding the Project. As noted above, the Addition will be constructed at a height lower than both the existing Library roof and the adjacent rowhouses. Second, construction to the property line is common in the RF-1 Zone, which is characterized by rowhouses, and therefore construction up to the adjacent property lines is consistent with the overall developed condition of the neighborhood. Third and finally, the Project was specifically designed to limit impact on the adjacent owners. On the south side of the Property, the entrance to the Addition will include lighting to promote safety while limited to downlighting to minimize any light impact on the neighbor. Additionally, on the north side of the Property, the mechanical equipment in the Addition has been raised and

screened to minimize any noise impacts on the adjacent neighbor. Therefore, the additional lot occupancy is appropriate within this context and will not negatively impact the neighbors.

B. Variance Relief – Pervious Surface

In order to obtain area variance relief, an applicant must demonstrate that (i) the property is affected by an exceptional or extraordinary situation or condition, (ii) the strict application of the Zoning Regulations will result in a practical difficulty to the applicant, and (iii) the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose, or integrity of the Zone Plan. *Neighbors for Responsive Government, LLC v. D.C. Board of Zoning Adjustment*, 195 A.3d 35, 55 (D.C. 2018). Additionally, the Board may provide flexibility in applying this three-part test for a variance “when the applicant is a non-profit organization (rather than a for-profit entity), especially where the organization is seeking the zoning relief in order to meet a public need or serve the public interest.” *Id.* at 56. As demonstrated below, the Project satisfies these requirements for the pervious surface relief requested to construct an expanded public library for the community.

1. *The Property is Affected by an Exceptional Situation or Condition*

The Court of Appeals held in *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. Rather, it may arise from a confluence of factors.” *Id.* Additionally, *United Unions, Inc. v. D.C. Board of Zoning Adjustment*, 554 A.2d 313, 317 (D.C. 1989), explicitly states that “the landmark status of a single building is legally predicated on the unique attributes of that building” and that “these are special conditions simply not shared by the other buildings in the area,” making a historic landmark a property affected by an exceptional condition.

Here, the Property is affected by a confluence of factors creating an exceptional condition. First, and most importantly, the Library is a historic landmark, and the Project must prioritize the historic nature of the building, which by necessity limits the ability to expand vertically, the materials used for the Project, and the size and appearance of any new additions. Specifically, as one of only four Carnegie-funded libraries in the District, there is a priority to keep the existing Library as-designed and with no vertical addition. The Project is required to undergo approval by HPRB because it is a landmark, and DCPL has been engaged with Historic Preservation Office staff to ensure the design promotes and preserves the historic building. As in *United Unions*, these are exceptional conditions that do not apply to any other property in the area.

In addition to its landmark status, the Property is irregularly shaped as a triangle with a pinch point at the intersection of three streets. The Library was specifically designed by Tilton to fit the irregularly shaped lot. Finally, the Property includes significant public parking on all three public sides. This confluence of factors, and specifically the Property's historic landmark status, make it affected by an exceptional condition.

The Court of Appeals has also made clear that the nature of the use of the property has an influence on whether a property is affected by exceptional conditions. Specifically, the court has noted that "While a commercial user before the BZA might not be able to establish uniqueness in a particular site's exceptional profit-making potential, we consider that the BZA may be more flexible when it assesses a non-profit organization which is a well established element of our governmental system." *Monaco v. D.C. Board of Zoning Adjustment*, 407 A.2d 1091, 1098 (D.C. 1979). Further, the court established that "a non-profit organization may be granted an area variance to meet a public need or serve the public interest if it shows (1) that the specific design

it wants to build constitutes an institutional necessity, not merely the most desired of various options, and (2) precisely how the needed design features require the specific variance sought.” *Neighbors for Responsive Government*, 195 A.3d at 56 (affirming the Board’s finding of an exceptional condition for a District government emergency shelter).

Here, the Project is directly intended to meet the public need of a modern library providing collections and amenities to serve the community. As noted above, given the age of the Library, modernization and expansion is an institutional necessity. The existing facility does not have the space or infrastructure to provide full accessibility, ample books and computers, and community meeting rooms, to serve the growing Capitol Hill community. The Project has been designed to respect the historic nature of the existing Library. Therefore, where possible, the expansion has been done below grade and into a vault. However, to provide the mechanical systems and ADA-compliant core circulation to the Project, DCPL must increase the lot occupancy and, therefore, decrease the amount of pervious surface currently provided, necessitating the variance requested.

2. *Strict Application of the Zoning Regulations Would Result in a Practical Difficulty*

To satisfy the second element for an area variance, the applicant must demonstrate a “practical difficulty.” The Court of Appeals has established that the applicant must demonstrate that “compliance with the area restriction would be unnecessarily burdensome” and that the practical difficulty is “unique to a particularly property.” *Gilmartin*, 579 A.2d at 1170. The Court of Appeals has held that the “nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case” and that “increased expense and inconvenience to applicants for a variance are among proper factors for [the] BZA’s



consideration. *Id.* at 1171. Some other factors that the BZA may consider are “the weight of the burden of strict compliance” and “the severity of the variance(s) requested.” *Id.*

The practical difficulty for the Project results from the exceptional conditions discussed above for the Property. First, the Project must respect the historic landmark. The Project is therefore limited in any expansion because it cannot vertically expand above the existing historic landmark. Additionally, given the significant public parking and odd shape of the lot, the only location for potential expansion is at the west side of the Property. While the Project maximizes expansion space below-grade and underneath the public parking to avoid increasing the Library’s footprint, as detailed above, the Project must provide ADA-compliant access, a centralized core to service every level of the Project, and mechanical equipment to serve the entire Library. The only way to accommodate this is through the limited Addition. Because the Library already is non-conforming as to pervious surface, it would be impossible to expand as needed without increasing this non-conformity. For the reasons explained above, the Addition is the minimum footprint needed for the Project. Therefore, it is also not feasible to limit the lot occupancy expansion to only 25%, which would mean the pervious surface requirement would not apply.

Additionally, the Project cannot add additional pervious area at the ground level given that almost all of the Property will be covered with improvements. Further, it is not feasible to include green roof on the Addition, limiting the ability to provide additional pervious as part of the Project. The northern half of the Addition is screened mechanical equipment, which prevents the construction of a green roof. On the southern half, the Addition is at a lower height than both the existing Library roof and the adjacent rowhouse chimney and roof. Therefore, it exists in a well that would make a green roof difficult to maintain. Further, the cost of constructing a green roof on this half of the Addition would be extremely high in comparison to the very limited

green area that would be added. Finally, the roof of the landmark Library is almost entirely sloped, preventing the addition of a green roof there. Thus, the Project is unable to comply with the pervious surface requirements without creating a practical difficulty for DCPL.

3. *Relief Can be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose, and Integrity of the Zone Plan*

Finally, the Applicant must demonstrate that “granting the variance will do no harm to the public good or to the zone plan.” *Gilmartin*, 579 A.2d at 1167. Here, the requested variance can be granted without causing any adverse impact on the neighboring properties or the Zone Plan. As detailed above, the Project has been designed to respect the adjacent neighbors. Construction to the property line is common in the RF-1 zone, the height of the Addition is lower than the neighboring properties, and the Project includes noise and light mitigations to avoid negatively impacting the neighbors.

The Project serves the overall goals of the Comprehensive Plan and the District as a whole by providing vital library services to a growing community in a context-sensitive development. The Project centralizes the historic Southeast Branch Library, provides additional space, books, and computers to serve the community, and provides true accessibility to all of the Project. Therefore, the Project does not harm the public good or the zone plan.

**VI.**

**Conclusion**

For all of the above reasons, the Applicant is entitled to the special exception approval and variance relief requested in this case.

Respectfully submitted,

/s/

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/s/

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