

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Prehearing Statement
BZA Case No. 21250 of Fikremariam Mengesha
7410 Eastern Avenue, NW (Square 3178E, Lot 115)

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

This Statement is submitted on behalf of Fikremariam Mengesha (the “**Applicant**”), owner of the property located at 7410 Eastern Avenue, NW (Square 3178E, Lot 115) (the “**Property**”). The Property is located in the R-2 Zone District and is currently improved with a one-story (+ basement) building (the “**Building**”). The Applicant is proposing to use the existing Building for an assisted living facility with no age limit. While this type of use is commonly associated with a Continuing Care Retirement Community, those uses are limited to 60+ years of age per the Zoning Regulations. As the proposed use has no age limit, the Zoning Regulations do not categorize this as a Continuing Care Retirement Community. The use is licensed under the Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 and are therefore falls under the definition of a “Health Care Facility” per the Zoning Regulations.¹

A health care facility is a matter of right use in the R-2 zone if it is limited to 8 residents. Subtitle U-203.1(j) permits special exception approval for a health care facility between 9 and 300 persons. The proposed use will have 14 beds; accordingly, the Applicant is requesting special exception approval pursuant to U-203.1(j).

Due to the topography at the side and rear, the Applicant cannot feasibly access parking from the side and rear alleys. There is an existing curb cut along Eastern Avenue leading to a driveway which was historically used by the previous residential owner as a parking area. However, that driveway is located in public space and cannot legally be used for parking. Therefore, DDOT has requested that the existing curb cut along Eastern Avenue be closed. Accordingly, the Applicant is seeking parking relief as a minimum of 1 space is required for the proposed use.²

¹ Defined as: **Health Care Facility**: A facility that meets the definition for and is licensed under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 32-44-501*et seq.*)

² The requirement for this use is 1 space for every 1,000 feet in excess of 3,000 square feet, with a minimum of one space. The Property is under 3,000 sq. ft., but must have one space per the regulation.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief requested pursuant to Subtitle X-901.2, U-203.1(j), and C-703.2.

III. WITNESSES

The Applicant anticipates that Alexandra Wilson from Sullivan & Barros will lead the presentation and that Mr. Aaron Eyob and Mr. Senay Medhani from the owner's team will be available for questions. Mr. Toye Bello will also attend as an additional consultant.

IV. BACKGROUND.

A. Description of the Property Location and Surrounding Area.

The Property is located in the R-2 zone district. It is currently improved with a one story + basement detached building. Abutting the Property to the north is Eastern Avenue which serves as the boundary between Maryland and DC. Abutting the Property to the south is a public alley. Abutting the Property to the west is a public alley. Abutting the Property to the east is a detached single-family dwelling (7408 Eastern). The area is primarily made up of low-density single-family uses.

B. Proposed Use.

A more detailed description of the proposed use has been included as an Exhibit to this filing labeled "Proposed Facility Description-7410 Eastern Avenue, NW." The processes and procedures for the facility have also been included as an Exhibit labeled "Assisted Living Facility Policies and Procedures."

V. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF.

A. General Special Exception Criteria.

Pursuant to Subtitle X-901.2 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property. The proposed use is residential in nature and is appropriate in this location given the quiet nature of the use which is to promote and facilitate restful recovery and get residents back to independent living, if possible.

B. Requirements of Subtitle U-203.1(j).

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

The proposed use is defined as a "health care facility" under the Zoning Regulations. When limited to only 8 residents, it is considered a matter-of-right use. The regulations permit up to 300 residents via special exception. The Application meets the requirements of U-203.1(j) as follows:

- (1) In R-Use Group A, there shall be no other property containing a health care facility either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property;**

The Property is not in R-Use Group A.

- (2) In R-Use Groups B and C, there shall be no other property containing a health care facility either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property;**

There are no properties containing health care facilities within a radius of five hundred feet (500 ft.) from any portion of the property.

- (3) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;**

As discussed below, the Applicant must seek relief for one single parking spot. The Applicant cannot physically provide any parking on site. Additionally, the curb cut closure will result in at least two new on-street parking spaces in front of the building. This special exception requirement is meant to cover health care facilities that may have up to 300 residents and should be analyzed in the context of the proposed facility.

The proposed facility operations are such that even without parking, the parking needs of occupants, employees and visitors to the site are provided for, in this case. Regarding the needs of the occupants, the Applicant is proposing 14 beds—only 6 more than permitted as a matter of right—and does not anticipate any residents needing cars given the type of use. Healthcare facility is a broad term encompassing many different types of healthcare uses, not just assisted living.

Perhaps in other types of healthcare facility uses, such as a Community Residence Facility housing able bodied people, car use would be desired or needed, but this particular use would not necessitate a car for the occupants.

Regarding employees, the current driveway in public space will be closed, allowing room for 2-3 new on-street parking spaces immediately in front of the Building. Only 2-3 employees would be at the facility at one time and those employees would be able to use the readily available street parking that currently exists near the property. Photographs of the street parking have been included with this submission. Regarding visitors, as further discussed in the Facility Operations, visitors can be planned for and accommodated given that there are specific times visitors or permitted and visitors are scheduled. Additionally, deliveries are planned to occur specifically between 7am-9am. Photographs have been submitted to show the street parking currently available at that time. And the curb cut closing will add even more street parking.

Further, the Takoma Metro is approximately half a mile and the Route 70 Bus is located approximately two-tenths of a mile from the Property, along Georgia Avenue. The Route 70 bus is considered a Priority Metrobus Route. Accordingly, both employees and visitors could utilize readily accessible public transportation. These factors together, combined with the fact that the site is below the 3,000 sq. ft. threshold to trigger additional parking requirements and safely meets the parking special exception requirements as described below, makes on-site parking unnecessary for this particular use.

(4) The proposed facility shall meet all applicable code and licensing requirements;

The proposed facility will meet all applicable code and licensing requirements, as further demonstrated by the Policies and Procedures Manual included with this submission. The Applicant is proposing a chair lift at the front of the building for accessibility.

(5) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and

The proposed density is still quite limited considering that a health care facility for up to 300 residents is permitted via special exception. And the nature of the use is such that it will be a quiet use with limited visitors, limited deliveries, and quiet hours, as detailed in the Proposed Facility Description.

(6) More than one (1) health care facility in a square or within the distances of (1) and (2) above may be approved only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations;

This does not apply.

C. Special Exception Requirements of Subtitle C-703.2.

The Applicant is requesting special exception relief from the minimum parking requirements of C § 701.5 pursuant to C § 703.2.

Section 703.2 “The Board of Zoning Adjustment may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant’s demonstration of at least one (1) of the following:

The Applicant is only required to satisfy one of the considerations under C § 703.2. The information below includes the section that most safely applies to this subject Property and Application.

(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;

As demonstrated by the photographs submitted with this statement, the Property has a significant topographic change between its rear and the alley and access is impeded by existing retaining walls. It is not physically possible to create a parking space in the rear without substantial land disturbance. There do not appear to be parking spaces available for rent within 600 feet of the lot as all existing spaces serve their respective residential uses.

(b) The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities;

The Takoma Metro is approximately one half mile from the Subject Property and the Route 70 Bus is located less than two-tenths of a mile from the Property, along Georgia Avenue. The Route 70 bus is considered a Priority Metrobus Route.

(c) Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces;

As described directly above in (b), the Property is well-served by public transit. Moreover, the directly adjacent properties have dedicated off-street parking, as do a majority of the homes in this square. Further, the closing of the curb cut will result in 2-3 new on-street parking spaces, leading to an overall increase in parking.

(d) Amount of traffic congestion existing or which the parking for the building or structure would reasonably be expected to create in the neighborhood;(e) The nature of the use or structure or the number of residents, employees, guests, customers, or clients who would reasonably be expected to use the proposed building or structure at one time would generate demand for less parking than the minimum parking standards;

This requirement is meant to cover health care facilities generally (not specifically ALRs) and health care facilities up to 300 residents. The proposed facility operations are such that even without parking, the parking needs of occupants, employees and visitors to the site are provided for, in this case. Regarding the needs of the occupants, the Applicant is proposing 14 beds and does not anticipate any residents needing cars given the type of use. Perhaps in other health care facilities, car use would be desired or needed, but this particular use would not necessitate a car for the occupants. Regarding employees, the current driveway in public space will be closed and 2-3 new on-street parking spaces will result immediately in front of the building, where the curb cut to the driveway is located now. Only 2-3 employees would be at the facility at one time and those employees would be able to use the new spaces directly in front of the property. Deliveries are scheduled within a specific window and there is existing available street parking in front of the building even without the curb cut being closed.

Regarding visitors, as further discussed in the Facility Operations, visitors can be planned for and accommodated given that there are specific times visitors or permitted and visitors are scheduled. Further, the Takoma Metro is approximately half a mile and the Route 70 Bus is located approximately two-tenths of a mile from the Property, along Georgia Avenue. The Route 70 bus is considered a Priority Metrobus Route. Accordingly, both employees and visitors could utilize readily accessible public transportation. These factors together, combined with the fact that the site is below the 3,000 sq. ft. threshold to trigger additional parking requirements and safely meets the parking special exception requirements as described below, makes on-site parking unnecessary for this particular use.

(h) The property does not have access to an open public alley, resulting in the only means by which a motor vehicle could access the lot is from an improved public street and either:

(1) A curb cut permit for the property has been denied by the District Department of Transportation; or

(2) Any driveway that could access an improved public street from the property would violate any regulation of this chapter, of the parking provisions of any other subtitle in the Zoning Regulations, or of Chapters 6 or 11 of Title 24 DCMR;

DDOT is requiring the Applicant close the existing curb cut as it leads to a driveway in public space. As parking is not permitted in public space, any driveway that could access an improved public street from the property would violate DDOT's public space regulations.

Section C-703.3 Any reduction in the required number of parking spaces shall be only for the amount that the applicant is physically unable to provide, and shall be proportionate to the reduction in parking demand demonstrated by the applicant.

The reduction in the required number of parking spaces (one space) is only for the amount the applicant is physically unable to provide. Regarding demand for parking, as discussed above, the Applicant anticipates that the demand for parking can be met with existing and new on-street parking.

VI. CONCLUSION.

For the reasons stated above, this Application meets the requirements for special exception relief by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,

Alexandra Wilson

Alexandra Wilson
Sullivan & Barros, LLP
Date: March 7, 2025