DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Applicant's Supplemental Statement of 1332 HARVAR LLC
1332 Harvard Street, NW (Square 2855, Lot 66)

I. Supplemental Information and Area Variance Summary:

The Applicant submits this brief supplemental statement in connection with its previously filed application for area variance relief to legalize an existing fourth dwelling unit at 1332 Harvard Street NW. As noted in the Applicant's primary submission (Exhibit 8), there are two ways to review the request for relief.

1. A De Novo Perspective

Viewed de novo - i.e., as if the lowest level were currently vacant or mid-construction, the request fits squarely within prior decisions of the Board. This is a purpose-built apartment building, making it unique, and the Board has previously recognized that property owners in this context may face practical difficulties when attempting to maintain vacant or underutilized lower levels. The Applicant's statement outlines how those prior cases, such as BZA Case No. 19938, support granting relief when an existing lower level can reasonably accommodate a new dwelling unit without expansion of the building envelope.

2. Unique History: The Context of Good Faith Reliance and Successor Responsibility

Alternatively - or additionally - this case should be considered through the lens of the Applicant's good faith efforts to resolve issues created by prior parties, including the old owner (pre-2008), and the managing partner of the former ownership group (2008-2020). This unique history can be considered as part of the exceptional circumstances leading to the practical difficulty for purposes of the variance test. This context is also discussed in more detail under "Zone Plan and Public Good."

The lower-level unit renovation was *already* underway when the property was purchased in 2008 by a multi-member ownership group. The managing partner of the multi-member group, who held a majority interest, took over the project and renovation. He represented to the rest of the group that all permits for the fourth unit had been secured and approved. The other members of that ownership team, including the current stakeholder (new ownership group), relied on those

assurances and as the apartment was rented out for over a decade, and as there have been no enforcement issues, had no idea that there were any issues with the legality of the unit.

The current stakeholders/owner took over management of the property following the former managing partner's departure in 2020. As part of a routine ownership transition, the team initiated the process to update the Certificate of Occupancy in 2021-22. It was during this process that they learned the C of O only covered three units. This was the first time the current team became aware of any permitting deficiencies.

In response, the Applicant, led by Ms. Geesler, promptly began investigating how this occurred and how best to remedy it. After engaging a consultant - at quite a high cost - and navigating several District agencies, the Applicant submitted a new permit to the Department of Buildings to add the fourth unit, leading to this point. All other disciplines have signed off on the permit except for zoning.

II. Practical Difficulties

Absent relief, the Applicant faces two options: (1) combine the fourth unit with the first floor, or (2) demolish the fourth and leave the space vacant.

The Applicant has carefully explored both alternatives and determined that each would pose significant financial and operational difficulties. As detailed in the attached preliminary cost analysis prepared by CSC Design Studio, reconfiguring the ground and cellar levels into a single unit would cost approximately $370,250, excluding soft costs, financing impacts, prolonged vacancy, and disruption to existing tenants.

Creating a single unit would require a full gut renovation of two otherwise functional, code-compliant, two-bedroom, two-bath units. The alternative - demolishing the fourth unit entirely and leaving the space unoccupied - would still incur substantial cost, result in permanent loss of rental income, and leave a conditioned space vacant and underutilized.

III. Zone Plan and Public Good

While every case is decided on its own merits, this case is factually and legally distinct from any scenario that might risk setting a replicable fact pattern. The Applicant is not seeking relief based on intentional noncompliance, nor is this an attempt to circumvent zoning through

after-the-fact legalization. To the contrary, the current ownership group, led by Ms. Geesler, inherited a condition it genuinely believed had been resolved by the former managing partner. Only upon initiating routine paperwork in 2022 to update ownership documents did Ms. Geesler learn that the fourth unit was not reflected on the Certificate of Occupancy. She then made a proactive decision - without enforcement action or external prompting - to investigate, engage experts, and bring the matter before the Board.

There is no incentive for others to replicate this path. The idea that someone would intentionally spend substantial capital building a fourth unit without permits, operate it for over a decade in uncertainty, and then initiate a complex zoning relief process years later - purely to circumvent the 900 sq. ft. rule - is implausible. That would be a significant financial and regulatory risk. This case is also clearly distinguishable from recent applications involving unlawful additions - such as unpermitted decks or structures built in direct violation of zoning rules - where applicants later attempted to claim hardship. Here, the Applicant did not create the condition, was unaware of the zoning discrepancy, and has taken every step to correct it in good faith. The Board can grant this relief with confidence that it will not invite abuse, because the unique facts are unlikely to be repeated. Especially given the fact that this is a purpose-built apartment building and not a straight conversion case like other 900-foot rule after-the-fact relief requests.

At a time when the District is actively encouraging additional housing opportunities, requiring the removal of this internal, fully compliant (other than zoning) unit located in a purpose-built apartment building would reduce - not enhance - housing stock. Importantly, the use itself - an apartment building - is expressly permitted in the RF-1 zone when the building is purpose-built for that use. The need for relief arises solely due to the land area requirement found in Subtitle U § 301.5(b), which requires 900 square feet of lot area per dwelling unit.

This provision is not intended to prohibit apartment buildings outright, but rather to regulate density in a manner consistent with neighborhood character. Its goal is to avoid overcrowding and overburdening infrastructure in areas predominantly composed of lower-density residential uses.

However, in this case, the relief requested would not produce any such adverse impacts. The additional unit does not increase the building's size, footprint, or height, nor does it alter the

building's external appearance. The unit has existed and been occupied for over a decade without any complaints or disruption to the surrounding community.

Moreover, the property is located in a dense, transit-rich area with multiple multi-family buildings adjacent or nearby. The immediate context includes other apartment buildings, and the additional unit is fully compatible with the surrounding built environment. Accordingly, the proposed relief would not undermine the intent of the zone plan, nor would it be inconsistent with the public good.

For these reasons, strict application of the 900 square foot per unit rule in this instance would not serve the underlying purpose of the regulation and would instead result in unnecessary burden to the Applicant without any corresponding public concerns, and in fact may have the opposite effect as it removes housing stock.

IV. Conclusion

For the reasons described above, the Applicant respectfully submits that requiring the elimination of the existing fourth unit—whether by consolidation or demolition - would result in undue practical difficulties and financial hardship. These facts further support the Applicant's request for area variance relief under Subtitle U § 301.5(b).

Respectfully Submitted,

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