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July 15, 2026

D.C. Board of Zoning Adjustment
441 4th Street, NW, Suite 200S
Washington, D.C. 20001

Re: **BZA Case No. 21453 – 2222 Q Street NW (Square 2510, Lot 38) (the "Property") – Post-Hearing Supplemental Submission**

Dear Members of the Board:

The Applicant hereby submits this supplemental submission in response to the Board's request at the July 1, 2026 public hearing on the Application.

As discussed in prior submissions and at the hearing, the Applicant proposes a comprehensive renovation and rehabilitation of the existing legally nonconforming apartment building on the Property to bring the historic structure up to modern living standards and current life/safety requirements, and to address significant environmental/hazardous materials conditions in the building (collectively, the "**Project**"), and the Applicant proposes to add four new units in the building's existing cellar to provide the necessary financial support to facilitate the extensive scope of work needed to fully restore the building.

I. Property Management

In response to the Board's request, attached are the Applicant's property management plans for effective administration of building operations to serve building residents and minimize any impacts on surrounding neighbors:

- Move-In/Move-Out Management Plan (Exhibit A)
- Trash Management Plan (Exhibit B)
- Parking Management Plan (Exhibit C)

The Applicant has extensive experience managing residential buildings throughout the District and in the broader DMV area, including 30 buildings within the District of Columbia. The Applicant is committed to being a good neighbor to existing residents and the surrounding community and to providing a high level of services and site management for the benefit of both the building's residents and neighbors.

We also note that the Applicant has reached out directly to the neighbor who testified at the public hearing to ensure the concerns that were raised are addressed promptly and effectively and to maintain an open line of communication for any future feedback or concerns. The Applicant also has worked closely with other existing neighbors on the block since acquiring the Property earlier this year, and knocked on doors and left contact information throughout the block prior to filing this Application to ensure that all nearby residents have the opportunity to discuss the Project, raise any concerns, and have a direct point of contact going forward for any feedback or issues. The Applicant looks forward to continuing to work with the neighbors and surrounding community as the Project moves forward and for the years to come, as the Applicant will be a long-term owner and manager of the Property and stakeholder in the community.

II. Undue Hardship

A. Evidence Supports that Denial of the Variance Will Impose a Hardship.

At the public hearing, the Board requested additional evidence in support of the undue hardship the Applicant faces if the requested use variance is not approved to allow the existing cellar to be converted to create additional residential units. To that end, attached as Exhibit D is a sworn declaration from the Applicant attesting to the financial constraints that denial of the variance will impose on the Project, resulting in insufficient funds to implement the full scope of restoration, rehabilitation, and renovation work the Applicant proposes in order to fully revitalize the existing building and bring it up to the modern standards that this century-old structure — and the future residents of the building — deserve. The constraints on the Project financing and the direct reduction of available funds if the additional units are not achievable are further substantiated in a letter provided by the Project's lender, which is attached as Exhibit E.

Specifically, as stated in the Applicant's sworn declaration and discussed in the Applicant's prior submissions (including detailed discussion in the prior Supplemental Submission at Exhibits 24–24D of the case record), absent a variance to allow the additional cellar units, the construction financing for the Project will be reduced from approximately $6,644,317 to approximately $4,844,317 — a **27% reduction**. Moreover, as addressed in Exhibit 24 in the case record and reiterated in the Applicant's sworn declaration included in this submission, reduction of the Project financing amount will force the Applicant to drastically scale back the scope of work that can be realized for the building, including the following: a major reduction in the scope of electrical updates, with no increase to building power capacity or updated metering; no replacement of the existing dated windows currently in a state of disrepair; and no full replacement of the damaged and deteriorated roof; and other Project cuts that would be triggered by the reduction in work funding, as outlined in detail in prior submissions and discussed at the public hearing.

Furthermore, as outlined in prior submissions and as the Applicant's expert witness in architecture testified at the public hearing, the cellar space cannot be successfully converted to building amenity space, in lieu of additional units, because the necessary lighting and ductwork for an amenity space do not allow for sufficient vertical clear ceiling heights that meet the legal requirements for habitation. (*See* July 1, 2026 Public Hearing Recording at 2:37:40–2:38:43.) Also, the other uses to which the cellar space could be devoted, such as additional storage, would not provide a reasonable return on investment since storage does not meaningfully increase revenue. These realities echo the conclusion embodied in how the Project lender has structured the construction loan, which represents an unequivocal market determination that the creation of additional residential units is the only use of the cellar that will support a fair and reasonable return on the full investment amount needed to adequately rehabilitate the Property. *Cf. Downtown Cluster of Congregations v. District of Columbia Bd. of Zoning Adjustment*, 675 A.2d 484, 491-492 (D.C. 1996) (quoting *Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 542 (D.C. 1972) for the foundational precept that an undue hardship is shown when "the property cannot be put to any conforming use with a fair and reasonable return . . .").

In short, the denial of the use variance that is required to create the additional cellar units will directly result in a significantly scaled-down renovation of the building that does not achieve all of the critical restoration and rehabilitation work that is necessary to truly restore the building to its proper esteemed state and fully serve the best interests of the District residents who will live in the building, as well as neighbors and the community who likewise would benefit from a fully revitalized building that contributes to the overall character of the surrounding neighborhood.

B. The Purpose of the Variance Provision Supports Granting the Variance despite Knowledge of the Building's Condition

The public policy rationale underpinning the provision of a variance mechanism in the Zoning Regulations strongly supports granting a variance in this case, where the Property and existing building have continued to deteriorate and have fallen into disrepair as a direct result of the unique circumstances affecting the site — in particular, the Property being rezoned to disallow multifamily use after the building was constructed, in contrast with nearby buildings within the same submarket that are zoned to allow multifamily use by right, and the resulting inability across the lifespan of the structure to attract investors able to take on the substantial work and cost of bringing the historic building up to modern standards and life/safety requirements and restoring the building's historic features, as is necessary.

It bears emphasis that the dilapidated state of the building, the repair of which is impeded by the Property being rezoned after the multifamily use was established at the site, is precisely the type of unique and problematic scenario that the variance process was conceived and created to address. This is borne out by D.C. Court of Appeals precedent, which firmly provides that a variance is appropriate "**where the land is incapable of yielding a fair return because of obsolete or dilapidated improvements**." *Clerics of St. Viator v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974) (internal quotation and citation excluded).

Likewise, the Court's decision in *Clerics of St. Viator* repudiates the concept that a variance is inappropriate merely because the applicant was aware of the hardship but otherwise was not implicating in actually creating such hardship (i.e., not self-imposed). While in certain cases prior knowledge by the Applicant may constitute a factor justifying denial of a use variance, <u>that is not the case where, as here, it is clear that the applicant played no part in creating or causing the alleged hardship</u>. Indeed, in the *Clerics* decision, the Court addressed this question directly and decisively rejected the conclusion that the applicant in that case was not entitled to a use variance to convert a seminary to a nursing home merely because the applicant was fully aware of the zoning restrictions on the site. *See id.* **Rather, the Court affirmed that the variance remained appropriate, despite the applicant's prior knowledge of the circumstances affecting the property, because the hardship the applicant faced — in that case, a drop in enrollment of seminarians — was not created by the applicant or within the applicant's control and, therefore, was not "self-imposed."**

Likewise, here, while the Applicant was aware of the Property's poor condition, dilapidation of the building, environmental/hazardous materials conditions, and need for comprehensive upgrades and repairs to address decades of deferred maintenance when it purchased the Property— as any prudent purchaser would be aware of such conditions — none of the circumstances precipitating the undue hardship in this case were created by the Applicant. Rather, the condition of the building, zoning history of the Property, and unique location in competition with other multifamily buildings that have maintained zoning that reflects their historic use, among the other factors contributing to the Property's exceptional condition and hardship, are all entirely beyond the Applicant's control having predated the Applicant's ownership and therefore cannot reasonably be said to be "self-imposed." Accordingly, it would frustrate the policy objectives of providing the variance mechanism as an intentional equitable feature of the Zoning Regulations to deny the variance here and thereby condemn the Property and historic building to continued degradation, from one market cycle to the next, from a lack of necessary investment and restoration.

III. Exhibits

- Exhibit A – Move-In/Move-Out Management Plan
- Exhibit B – Trash Management Plan
- Exhibit C – Parking Management Plan
- Exhibit D – Affidavit of Jeff Certosimo
- Exhibit E – Letter from Project Lender

IV. Conclusion

For all the reasons discussed above, outlined in the Applicant's prior submissions, and put forward at the public hearing, the Applicant meets the standards for the requested use variance in this case. Accordingly, the Applicant asks that the Board consider, and give "great weight" to, the recommendations of the Office of Planning and Advisory Neighborhood Commission 2D to approve the Application and allow the Applicant to fully and appropriately revitalize this site and successfully preserve and add to the District's significantly undersupplied housing stock, while not causing adverse impacts on neighboring properties and without violating the purposes of the Zone Plan.

We thank the Board for its time and consideration in this case and respectfully request that the Board approve the Application at its upcoming public meeting on July 22, 2026. Please feel free to contact Lawrence Ferris at (202) 721-1135 or Cary Kadlecek at (202) 721-1113 if you have any questions regarding the Application.

Sincerely,

/s/ Cary R. Kadlecek

/s/ Lawrence Ferris

Enclosures

Certificate of Service

The undersigned hereby certifies that copies of the foregoing document were delivered by email to the following addresses on July 15, 2026.

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