

**STATEMENT DEMONSTRATING COMPLIANCE
WITH SUBTITLE Y § 705.2**



April 28, 2025

Via IZIS

Board of Zoning Adjustment for the
District of Columbia
441 4th Street, N.W., Suite 201S
Washington, D.C. 20001

RE: BZA Order No. 19823 - Application for a Two-Year Time Extension
Wisconsin Avenue Baptist Church, 3920 Alton Place, N.W. (Sq. 1779, Lot 14)

Dear Members of the Board,

The Wisconsin Avenue Baptist Church ("WABC") submits this application to request a two-year extension of the validity of Board of Zoning Adjustment ("BZA") Order No. 19823 ("Order"). The Order granted several variances and special exceptions that would allow the construction of a new continuing care retirement community ("CCRC") and church facility on our property at 3920 Alton Place, N.W. (Sq. 1779, Lot 14) N.W. ("Property", located in the R-1-B District. A copy of the approval order is attached as Exhibit A. Included with this request the filing fee in the amount of \$2,568.80, which represents 26 percent of the original filing fee.

I. Background

On February 14, 2020, the BZA issued the Order authorizing special exceptions under the use requirements of Subtitle U § 203.1(f) for the CCRC use under Subtitle C § 1402 and from the retaining wall requirements of Subtitle C § 1401.3(c), and for variance relief from the height limitations of Subtitle D § 303.1, from the lot occupancy requirements of Subtitle D § 304.1, and from the side yard requirements of Subtitle D § 307.1. Sunrise Senior Living ("Sunrise") was our co-applicant which would own and operate the 86-unit CCRC while WABC would own and occupy the 250-seat new church. The Property is located at Tenley Circle in the Tenleytown neighborhood of upper northwest Washington in Ward 3.

Our enthusiasm over the issuance of the approval Order was short-lived. Within thirty days thereafter, opponents to the project petitioned the D.C. Court of Appeals to reverse and remand the Order, and the Covid-19 pandemic hit the United States. Both had devastating effects on the viability of the project in terms of timing, construction costs, and financing. First, with respect to the legal challenge, the court was required to prioritize criminal cases over civil and administrative appeals. Final reply briefs were not submitted until November 24, 2020, and oral arguments were not heard until almost a year later on September 30, 2021. The court did not render its decision affirming the Order until April 6, 2023, with the mandate finalizing the Order entered into the record on May 1, 2023, thereby effectuating the validity of the court's decision. A copy of the court docket with the mandate entry date is attached as Exhibit B. Under 11-Y DCMR § 702.3, the two-year validity of an approved BZA order began to run from the decision date of the court's final determination of the appeal. v In this instance, the Order expires May 1, 2025.

Second, with respect to the pandemic, construction costs skyrocketed, as has been well-documented in the press and in the numerous extension requests submitted to the BZA and Zoning Commission over the last several years. These costs, in turn, constricted the financial markets making it extraordinarily difficult to obtain financing for any new construction projects. These conditions were particularly deleterious for CCRC uses, which have stricter building code requirements than typical multi-family developments. Extensive testimony and evidence presented to the Board in the WABC case demonstrated that these additional costs incurred by CCRC uses necessitated the provision of at least 85 units to ensure the financial viability of the project. (Order at 13 and 25). The alliance forged between WABC and Sunrise was also critically important to the continuation of the church's presence in Tenleytown both spiritually and physically. Like many churches, WABC's building and systems had aged out of their useful life and the ability of the congregation to devote its scarce funds to repairs had reached a critical point. Joining forces with Sunrise would provide the church with a new state-of-the art facility to sustain it well into the future that at the same time would provide a critically needed, mission-compatible CCRC use.

Shortly after issuance of the court decision, Sunrise and WABC began meeting to re-start the project. We initiated plans, developed construction schedules, began construction drawings, and coordinated with other agencies and stakeholders to move the project forward. Unfortunately, given the disruptions in financial markets, Sunrise advised WABC that the project was no longer financially viable, particularly in light of the extremely narrow cost margin to which the project was designed in order to limit the variance relief necessary to the minimum number of units needed. WABC is now seeking to partner with another assisted living facility company to construct the approved project but needs more time to pursue this venture.

II. Standards for Approval of a Time Extension

WABC requests the Board to extend the validity of the Order for an additional two years, or until May 1, 2027. WABC meets the standards for approval of a time extension as set forth in Subtitle Y § 705.1 and as described below.

A. The Extension Request Must be Served on All Parties.

A copy of this extension request is being served simultaneously at the time of filing upon (i) Advisory Neighborhood Commission ("ANC") 3E; (ii) the Tenleytown Neighbors Association; and (iii) Yuma Street Requesters, the three organizations that BZA recognized as parties to the proceedings. Order at 2.

B. There is No Substantial Change to Any of the Material Facts Underlying the Board's Approval of the Requested Relief.

There has not been any substantial change to any of the material facts underlying the BZA's approval of the requested relief. WABC intends to proceed with the project as approved with a new CCRC provider. There is still a dire need for CCRC's to serve the aging population in the city.

C. There is Good Cause for the Extension.

The extraordinary time delays caused by the pandemic and the court proceedings, increased construction costs, and the extraordinary changes in financial markets together demonstrate good cause to extend the validity of the order to allow this worthwhile project to proceed. WABC is seeking another CCRC user that can deliver a modern, functioning church facility to serve the spiritual and religious needs of its congregation and the larger Tenleytown community while also providing an assisted living facility to help address a critical shortage of these uses in the District. While WABC has been contacted by other CCRCs, discussions have been hampered by the upcoming expiration of the Order. Extending the validity of the Order will provide WABC the time necessary to engage in serious discussions with a prospective partner in order to delivery this exceptional project to the community.

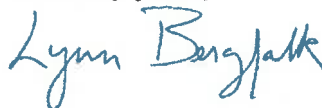
D. Community Engagement

WABC has reached out to Jonathan Bender, ANC 3E chair, to discuss this extension request. He has told us to proceed with the filing, and that the ANC will set up a time for us to present the application to them after the BZA notices the hearing. After the application is presented to the ANC at a regularly scheduled meeting, we anticipate the ANC would vote on a resolution. Jeff Denny, who was our SMD, recently moved so that seat is vacant, but Chair Bender informed us that a new commissioner for our district is coming on board in May.

III. Conclusion

Based on the foregoing, Wisconsin Avenue Baptist Church respectfully requests the Board to grant a two-year extension to the validity of BZA Order No. 19823. We would be happy to provide any additional information the Board may require to evaluate this request.

Very truly yours,

A handwritten signature in blue ink that reads "Lynn Bergfalk". The signature is written in a cursive, flowing style.

Rev. Dr. Lynn Bergfalk
Pastor