

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

Application of  
St. Joseph's on Capitol Hill Catholic Church, Inc.

ANC 6C02

**STATEMENT OF THE APPLICANT**

This application (“**Application**”) is by St. Joseph’s on Capitol Hill Catholic Church, Inc. (the “**Applicant**” or “**Church**”) to the Board of Zoning Adjustment (“**Board**”) for (i) special exception relief under Subtitle C § 305 for theoretical lots approval; and (ii) area variance relief from the rear yard and vehicular access width requirements of Subtitle C § 305.3 to accommodate the expansion of an existing carriage house to replace the Church’s current parish center with a new parish hall (“**Parish Hall**”) (the “**Project**”) located at 313 2<sup>nd</sup> Street NE (Square 756, Lots 47, 52, 827, and 828) (the “**Property**”). The Project will conform to the Zoning Regulations in all other respects.

**I. NATURE OF RELIEF SOUGHT**

The Applicant requests that the Board approve special exception relief pursuant to Subtitle C § 305.1 and Subtitle X § 901.2 and area variance relief pursuant to Subtitle X § 1000.1 of Title 11 of the District of Columbia Municipal Regulations (the “**Zoning Regulations**”).

**II. JURISIDCTION OF THE BOARD**

The Board has jurisdiction to grant the relief requested pursuant to Subtitle X § 901.2 and 1000.1 of the Zoning Regulations.

**III. DESCRIPTION OF THE PROPERTY, SURROUNDING AREA, AND BACKGROUND**

The Property is a corner lot, located in the Capitol Hill neighborhood in Northeast DC, and fronts on 2<sup>nd</sup> Street NE to the west and C Street NE to the south. Square 756 is bounded by

2<sup>nd</sup> Street NE to the west, D Street NE and Massachusetts Avenue NE to the north, 3<sup>rd</sup> Street NE to the east, and C Street NE to the south. As shown on the Zoning Map attached as Exhibit A, the Property is located in the RA-2/CAP (Capitol Interest) Zone District and within the boundaries of Advisory Neighborhood Commission (“ANC”) 6C. Rowhouses and low-rise apartment buildings exist to the east and immediately north of the Property, and a variety of retail, service, and eating and drinking establishment uses are located to the north along D Street and Massachusetts Avenue. The Hart Senate Office Building is located to the southwest of the Property across 2<sup>nd</sup> Street NE. Union Station is two blocks northwest of the Property, and Stanton Park is one and a half blocks to the east.

The Property comprises a total land area of 46,088 square feet across multiple lots, as shown on Pages A001-A002 the architectural plans attached as Exhibit B (“**Plans**”), as follows: Assessment and Taxation (“A&T”) Lot 827 (which includes Record Lots 3-8 and 23), A&T Lot 828, and Record Lots 47 and 52. The Applicant proposes to subdivide the entirety of the Property into a single Record Lot to facilitate the Project, which necessitates the theoretical subdivision relief the Applicant requests, as described more fully below. As shown on Pages A001-A002 of the Plans, the Property is currently improved with five (5) structures: the St. Joseph’s Roman Catholic Church building at the corner of 2<sup>nd</sup> and C Streets NE, a brownstone Gothic style building completed in 1891; the three-story Madonna House, located immediately east of the church facing C Street NE, constructed in 1921; a two-story rectory, located north of the church building facing 2<sup>nd</sup> Street NE, constructed in 1888; the existing parish center, located to the rear/east of the rectory, originally constructed as a garage in the 1920s; and a two-story carriage house, further east on the Property abutting the public alley network to the rear, constructed in 1902. The northern portion of the Property is improved with a surface parking lot.

The Property is located within the Capitol Hill Historic District, and the church building, Madonna House, rectory, and existing carriage house are considered contributing buildings in the Historic District. The Property is also within the jurisdiction of the U.S. Commission of Fine Arts (“CFA”) under the Shipstead-Luce Act. The Project has received concept approval from both the Historic Preservation Review Board (“HPRB”) (see [HPA 25-214](#)) and the CFA ([SL 25-075](#)).

The Applicant has occupied the Property for over 150 years, with the cornerstone of the church building originally laid in 1868 and a temporary frame structure erected in 1870, before the current church building was completed.

#### **IV. DESCRIPTION OF THE PROJECT**

As shown in the Plans ([Exhibit B](#)), the Project consists of removing the existing one-story parish center/garage structure and renovating and expanding the existing carriage house to create the new Parish Hall. The Church’s facilities are aging and no longer able to adequately serve the membership of St. Joseph’s Parish. The Project will upgrade and modernize the existing carriage house to meet life safety and accessibility standards, as well as enhancing the environmental efficiency of the building. The new Parish Hall will provide a dynamic gathering space for the Church community, including a place to host parish dinners and other events. Importantly, the Project will also provide additional space for the Church’s charitable services, including food donation and disaster relief. As shown on Page A300 of the Plans, the new Parish Hall will feature a community hall, full kitchen, choir room, and meeting/classrooms available to both parishioners and community members. The façade of the Parish Hall will consist of red brick and long vertical, and the building will be complemented by a courtyard with seating.

As noted above, the Project received concept approval from the HPRB and CFA, and the Applicant has received D.C. Council approval for an alley closing and dedication to close a small area within the rear public alley network abutting the Property (now Lot 828) to facilitate the

Project, as well as dedicating a former portion of Lot 827 at the northeast corner of the Property to widen the public alley at this location and improve maneuverability within the alley.

To facilitate the Project and construction of the new Parish Hall, the Applicant proposes to re-subdivide the Property to create a single Record Lot to underly all of the buildings on the Church campus, necessitating the special exception approval for theoretical lots requested in this Application. As shown on Page A004 of the Plans, the Applicant proposes to replace the existing configuration of multiple A&T and Record Lots with a single Record Lot divided into four separate theoretical lots for each of the buildings: Lot A, underlying the church building; Lot B, occupied by the rectory and parking lot; Lot C, occupied by the Madonna House; and Lot D, underlying the new Parish Hall. The proposed theoretical lots have been configured carefully to meet applicable setback requirements under Subtitle C § 305.3(a), and relief is only requested for rear yard requirements of Lot A (church building) and Lot D (Parish Hall) where necessitated by constraints of the existing site and configuration of the buildings.

The Project will have only a very minor impact on the zoning metrics for the overall Church campus. The Project will increase the current overall FAR for the Property from 0.57 FAR to 0.62 FAR, well below the maximum 1.8 FAR permitted for a church building in the RA-2/CAP Zone. The Project will increase the overall gross floor area on the Property by approximately 2,018 square feet, from the current 26,448 square feet to the proposed 28,466 square feet. Likewise, the Project will increase overall lot occupancy for the Property modestly from 35% to 38%, remaining well below the maximum 60% lot occupancy permitted. The scale of the new Parish Hall is designed to be in keeping with the existing improvements on the Property. The Parish Hall will have a height of approximately 29 feet, two (2) inches, which is similar to the height of the existing Madonna House and rectory, which have a height of approximately 34 feet, nine (9) inches and

30 feet, eight (8) inches, respectively, and is well within the maximum 40 feet in the RA-2/CAP Zone.

## **V. THE APPLICATION SATISFIES THE SPECIAL EXCEPTION CRITERIA FOR THEORETICAL LOTS UNDER SUBTITLE C § 305**

In residential zones, such as the RA-2/CAP Zone in which the Property is located, each new building must be located on a separate Record Lot and no building may be constructed to cover more than one Record Lot. 11-C DCMR §§ 302.2 and 302.3. However, the Board may approve multiple buildings on a single record lot utilizing theoretical lots pursuant to Subtitle C § 305. To obtain the requested relief for a theoretical lot subdivision in the RA-2/CAP Zone, an applicant must demonstrate satisfaction of the standards for theoretical lots approval under Subtitle C § 305, the additional criteria for special exception approval in the RA-2/CAP Zone under Subtitle F § 403, and the general criteria for special exception approval under Subtitle X § 901.2. For all of the reasons discussed below, the Applicant satisfies the standards for special exception approval of theoretical lots for the Property.

### **A. The Project Satisfies the Standards for Theoretical Subdivisions (C § 305).**

As shown on the Plans and described below, the Application meets the applicable development standards for theoretical lots under Subtitle C § 305, except where noted with respect to the additional variance relief requested in this Application and discussed in detail below.

- 1. Side and rear yards of a theoretical lot shall be consistent with the requirements of the zone (C § 305.3(a)).*

The RA-2/CAP Zone requires a minimum rear yard of four (4) inches per foot of building height, and not less than 15 feet. 11-F DCMR § 207.1. A side yard is not required, but if provided, it must be at least four (4) feet. *Id.* § 208.3(b). The measurements of the rear and side yards for each structure located on a theoretical lot are provided below and shown on page A004 of the Plans:

- Lot A: St. Joseph's Church
  - Rear Yard: **7 feet, 3 inches (relief requested)**
  - Side Yard: none provided
- Lot B: Rectory
  - Rear Yard: 16 feet, 5 inches
  - Side Yard: 32 feet, 6 inches (south)
- Lot C: Madonna House
  - Rear Yard: 15 feet, 6 inches
  - Side Yard: 9 feet, 3 inches (east)
- Lot D: New Parish Hall (Project)
  - Rear Yard: **6 feet (relief requested)**
  - Side Yard: 22 feet, 1 inch (south)

As noted above and discussed in detail below, the Applicant is requesting variance relief for rear yard requirements for the church building (Lot A) and the new Parish Hall (Lot D) in order to maintain the existing rear lot line configuration for the church and existing carriage house. Aside from this relief, the Project meets all other side and rear yard requirements as provided under Subtitle C § 305.3(a).

2. *Each means of vehicular ingress and egress to any principal building shall be at least 24 feet in width, exclusive of driveways (C § 305.3(b)).*

As shown in the Plans, vehicular access to the Property is provided via an existing driveway off of 2<sup>nd</sup> Street NE. As discussed in more detail below, because the existing driveway is 12 feet wide and cannot be widened without great difficulty and expense and significant negative impacts due to existing site constraints, the Applicant is requesting variance relief from the minimum width of 24 feet under Subtitle C § 305.3(b) as part of this Application.

3. *The height of a building shall be measured from the finished grade at the middle of the building façade facing the nearest street lot lines; and [t]he rule of height measurement in Subtitle C § 305.3(c) shall supersede any other rules of height measurement that apply in a zone, but shall not be followed if it conflicts with the Height Act (C §§ 305.3(c) and (d)).*

The Project has a height of approximately 29 feet, two (2) inches within the maximum permitted 40 feet in the RA-2/CAP Zone, measured from the finished grade at the middle of the building façade facing 2<sup>nd</sup> Street NE, as required under Subtitle C § 305.3(c). No other height

measurement rules apply, and the Project does not conflict with the Height Act. Accordingly, the Application satisfies these requirements.

*4. Site and Grading Plans, Floor Plans and Elevations, and Zoning Tabulations (C § 305.4).*

All of the required plans and other information for review have been included in the architectural and civil plans included in Exhibit B.

*5. Referral to the Office of Planning (C § 305.5).*

The Application will be referred to the Office of Planning (“OP”) to coordinate review by District agencies, as required by this section, and the Applicant will address any issues or questions raised by such agencies prior to the public hearing in this case.

**B. The Project Satisfies the Capitol Interest Residential Apartment Zone (RA-2/CAP) Criteria (F § 403).**

The Application is also required to demonstrate satisfaction of the additional criteria applicable to special exception relief for properties located within the RA-2/CAP Zone under Subtitle F § 403. As discussed below, the Project meets the applicable Capitol Interest standards.

*1. Compatible with the present and proposed development in the neighborhood (F § 403.1(a)).*

The Project’s use and form are consistent with the present and proposed development of the surrounding area. The Project’s proposed use is unchanged from the current use of the Property which, as noted above, dates back over 150 years. The Project will provide upgraded facilities to continue the work and operation of the Church consistent with its longstanding presence in the community.

The Project’s form is also compatible with the present and proposed development of the neighborhood, which has also been affirmed by the Project receiving concept design approval from both the HRPB and CFA. As noted above, the Project has a height of approximately 29 feet, two

(2) inches, less than the prescribed maximum height of 40 feet permitted in the Zone and similar in height to the existing Madonna House and rectory buildings on the Property, which have a height of approximately 34 feet, nine (9) inches and 30 feet, eight (8) inches, respectively. In addition, the Project will add only approximately 2,018 square feet of gross floor area to the overall Property, which represents an increase of only approximately 0.05 FAR, and the resulting FAR for the Property will be 0.62 FAR, remaining well below the maximum 1.8 FAR permitted in the Zone. Likewise, the Project will only marginally increase overall lot occupancy, from approximately 35% to 38%, which also remains well below the maximum 60% lot occupancy permitted for church buildings in the Zone.

Accordingly, the Project is compatible both with the present and contemplated future development of the neighborhood.

2. *Consistent with the Goals and Mandates of the Capitol Master Plan (F §§ 403.1(b) and (c)).*

Under Subtitle F §§ 403.1(b) and (c), the Board must find that the Application is consistent with the goals and mandates of the United States Congress in Title V of the Legislative Branch Appropriate Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288) (“**Capitol Master Plan**”) and is in accordance with the Capitol Master Plan. The Application will be referred to the Architect of the Capitol (“AOC”), as required, and the Applicant will address any issues raised by the AOC prior to the public hearing.

3. *Referral to Architect of the Capitol and District Agencies (F § 403.2).*

As noted above, the Application will be referred to the AOC, as well as to OP for review with DDOT, DHCD, and the Historic Preservation Office, as required under Subtitle F § 403.2.

4. *The Board May Require Special Treatment or Additional Conditions (F § 403.3).*

Here, given the modest scope of the Project and minimal impact of removing the existing parish center to construct the new Parish Hall incorporating the carriage house, the Applicant does not propose any additional conditions or requirements for the requested theoretical lot approval.

**C. The Requested Relief Is in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps and Will Not Adversely Affect the Use of Neighboring Property (X § 901.2).**

The theoretical subdivision is in harmony with the purpose and intent of the Zoning Regulations and Zoning Maps because the scale and nature of the Project continues to respect the surrounding area and Zone. The purpose and intent of the RA-2/CAP Zone is to protect the general welfare of the area surrounding the U.S. Capitol. *See* 11-F DCMR § 400.2. The nature of the religious institutional use of the Property respects the importance of the nearby Capitol grounds. The Project merely consolidates the use of two existing structures — the carriage house and existing parish center — into one building that will continue to host bible studies, choir practice, and other Church-related and charitable activities. The Project will visually improve the appearance of the Property with the high-quality architectural design that respects and complements the historic district, which is affirmed by the concept design approvals already granted by the HPRB and CFA for the Project. Accordingly, the requested relief is in harmony with the Zoning Regulations and Zoning Maps.

The Project and requested relief will also not adversely affect the use of neighboring property. The Project only marginally increases the overall density of the Property as it will remove the existing parish center/garage structure to enable a modest expansion of the carriage house. Specifically, as discussed above, the Project will increase the current overall FAR for the Property by only 0.05 FAR, from 0.57 FAR to 0.62 FAR, remaining well below the maximum 1.8 FAR permitted for a church building in the Zone. The Project is unobtrusive with a height of

approximately 29 feet, two (2) inches, well within the maximum 40 feet in the RA-2/CAP Zone and similar to the height of the existing Madonna House and rectory, as discussed above. The Project abuts an alley to the east and will maintain the existing rear building line of the carriage house, providing distance from the adjacent homes and its modest height will have no undue detrimental shade effects on the neighboring properties. The use of the new building likewise will have little or no adverse effect on neighboring property. The Project accommodates similar uses of the existing carriage house and parish center and, therefore, the Applicant does not anticipate an increase in traffic, noise, or intensity of use of the site.

## **VI. THE APPLICATION SATISFIES THE CRITERIA FOR THE REQUESTED AREA VARIANCE RELIEF**

Pursuant to Subtitle F § 207.1, the minimum required rear yard in the RA-2/CAP Zone is four (4) inches per foot of building height, but no less than 15 feet. As shown on Page A004 of the Plans, the Project will provide a rear yard of seven (7) feet, three (3) inches for the church building (Lot A) and a rear yard of six (6) feet for the new Parish Hall (Lot D). Accordingly, the Applicant requests variance relief from the rear yard requirement for Lots A and D. Importantly, the proposed rear yards for both Lots A and D will maintain the existing rear yards provided by the church and carriage house, respectively, as they relate to the existing corresponding rear lot lines. The rear lot line of Theoretical Lot A will match the location of the existing rear lot line of A&T Lot 827 / Record Lot 3. Similarly, the rear lot line of Theoretical Lot D, underlying the new Parish Hall, will match the existing rear lot line of Record Lot 47 abutting the existing carriage house. Accordingly, variance relief is only needed in order to recreate the existing church building rear yard condition and to allow the Parish Hall expansion of the existing carriage house, extending the nonconforming rear yard condition further south.

In addition to requesting rear yard relief, under Subtitle C § 305.3(b), each means of vehicular ingress and egress to any principal building shall be at least 24 feet in width, and, here, vehicular access to the Property will continue to be provided via the existing 12-foot wide driveway off of 2<sup>nd</sup> Street NE, as shown on Page A100 of the Plans. Therefore, the Applicant requests variance relief from the minimum vehicular access width requirement of Subtitle C § 305.3(b). Notably, the requested variance relief for the minimum width for vehicular access is needed only to maintain the existing 12-foot driveway, which cannot be widened without significant difficulty and expense and substantial negative impacts due to multiple site constraints, including existing landscape plantings, mature trees, and required mechanical equipment abutting the driveway.

As discussed in detail below, the application satisfies the standards for the requested area variance relief.

#### **A. Standards Applicable to Area Variance Relief.**

Variance relief requires a showing that: (a) the property is affected by an exceptional situation or condition; (b) the strict application of the Zoning Regulations will result in a practical difficulty to the applicant; and (c) granting the variance will not cause substantial detriment to the public good or substantially impair the intent, purpose, or integrity of the Zone Plan. *See D.C. Code § 6-641.07(g)(3); St. Mary's Episcopal Church v. D.C. Zoning Comm'n*, 174 A.3d 260, 269 (D.C. 2017).

The Court of Appeals has repeatedly held that the Board may be “more flexible” in applying the variance test when the applicant is a non-profit organization. *Neighbors for Responsive Government, LLC v. D.C. Bd. of Zoning Adjustment*, 195 A.3d 35, 56 (D.C. 2018). According to the “public good flexibility” doctrine, “when a public service has inadequate

facilities and applies for a variance to expand,” the Board may consider the needs of the organization as an exceptional condition. *Monaco v. D.C. Bd. of Zoning Adjustment*, 407 A.2d 1091, 1099 (D.C. 1979). The Court has held that the “public good flexibility” doctrine aims to “facilitate construction for organizations so that they can serve public needs. *McDonald v. D.C. Bd. of Zoning Adjustment*, 291 A.3d 1109, 1124 (D.C. 2023). In addition, an organization must show “(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.” *McDonald*, 291 A.3d at 1124.

The Applicant seeks the requested variance relief for rear yard and minimum vehicular access width requirements in order to continue serving its congregation with additional space for gathering, including for choir practice and bible study, and to serve, more broadly, the surrounding community through its charitable operations.

#### **B. The Property Is Affected by an Exceptional Situation or Condition.**

The Court has held 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.” *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). The Court has held that the Board “may consider the applicant’s particular proposed use and its needs as an exceptional condition” when an applicant seeks a variance to meet a public need or serve the public interest. *McDonald*, 291 A.3d at 1123.

Here, the Property is affected by multiple factors that together create an exceptional condition under the variance test. First, the Church’s campus includes five (5) different structures across 10 different lots — nine (9) Record Lots (including those underlying A&T Lot 827) and A&T Lot 828, created as a result of the recent alley closing and dedication for which the Church

obtained approval — which results in a highly complex and unusual configuration of structures and lots across the Church’s Property. Furthermore, the Property is located within both the Capitol Hill Historic District and the Shipstead-Luce Act area subject to CFA review, and four (4) of the existing structures are considered contributing structures in the Historic District, all of them dating back over a century. This adds an additional layer of complexity and constraints to designing a New Parish Hall to effectively meet the Church’s needs to fulfill its work and mission and adequately accommodate ongoing Church activities and functions. In addition to the unusual configuration of structures and the historic nature of the site and existing buildings, the Property includes existing landscaping and mature trees, as shown on Page A100 of the Plans, that impose additional site constraints, in particular with respect to the inability to widen the existing 12-foot driveway providing vehicular access to the Property.

In addition to the above factors affecting the Property, the institutional necessity of the Project to create the new, expanded Parish Hall to enable the Church to adequately accommodate congregation activities and effectively support the Church’s charitable work constitutes a factor contributing to the exceptional situation affecting the Property. The Project will accommodate not only church-related events and services, but will also support the Church’s ability to conduct its important charitable work, including coordination of food donation services, among other work. The existing carriage house is small and in much need of restoration, impeding the Church’s ability to use the building most effectively. Therefore, the new Parish Hall will accommodate church gatherings and, importantly, facilitate the Church’s philanthropic endeavors.

Accordingly, the unusual and complex configuration of the existing structures and lots constituting the Property; the historic nature and location within the Historic District and Shipstead-Luce Act area; the existing landscaping and mature trees on the site; and the institutional

necessity of updating the Church's current parish center and carriage house to support church-related functions and important charitable work, together, all converge to create an exception situation affecting the Property under the variance test.

**C. Strict Application of the Zoning Regulations Will Result in a Practical Difficulty for the Applicant.**

The Court has held that to meet the “practical difficulty” test, applicants must demonstrate (i) “that compliance with the area restriction would be unnecessarily burdensome” and (ii) “that the difficulties are unique to the particular property.” *McDonald*, 291 A.3d at 1125. The Board may consider “increased expense and inconvenience to applicants” when considering an applicant’s “practical difficulty.” *Gilmartin*, 579 A.2d at 1171. The Board may also consider “the weight of the burden of strict compliance” and “the severity of the variance(s) requested.” *Id.*

Compliance with the rear yard requirement for the new Parish Hall (Lot D) would prohibit the Church from expanding the existing carriage house in a meaningful way given the existing non-compliant rear yard. The existing floorplates are not adequate to meet the kinds of services the Church supports, including its charitable work. In addition, the Church is very constrained in the ability to design a modest expansion of the parish center without expanding the structure to the south, which in turn extends the existing nonconforming rear yard condition, necessitating relief. The new building cannot be expanded to the north because of the abutting public alley and cannot be further expanded to the west due to the need to maintain separation with the rectory, both to accommodate that structure’s rear yard and to maintain vehicular access through to the parking lot on the north side of the Property. Accordingly, the only option for expanding the parish center footprint is towards the south, extending the non-conforming condition and triggering the need for relief.

Compliance with the rear yard requirement for the church building (Lot A) likewise is practically difficult because the rear lot line is as far east as is possible, being face-on-line with the Madonna House. As noted above, it bears emphasizing that the proposed rear lot line of Lot A recreates the existing rear lot line of A&T Lot 827 / Record Lot 3, currently underlying the Church. Thus, the proposed new Theoretical Lot line merely reestablishes the existing condition, but, because it will replace the existing rear lot line, technical relief is needed under the Zoning Regulations.

With respect to the minimum required width for vehicular access, the Applicant is faced with a practical difficulty in widening the existing 12-foot driveway to meet the minimum 24 feet required under Subtitle C § 305.3(b) because of existing site improvements and plantings abutting the driveway. Specifically, as shown on Page A100 of the Plans, existing landscaping and several mature trees, fencing for the rectory garden, and mechanical equipment needed for the church building to the south all constrain the width of the driveway and make it infeasible to expand the existing driveway to meet the 24 feet required under Subtitle C § 305.3(b) without significant difficulty and expense and substantial negative impacts.

Importantly, the variance relief requested for each of these conditions is relatively minimal in that all of the relevant conditions represent the existing conditions on the Property today. While the severity of the variance sought is minimal, the weight of strict compliance — i.e., foregoing the necessary footprint to accommodate the Church's use of the building, and for the driveway, removing plantings and mature trees, narrowing the rectory garden significantly, and relocating necessary mechanical equipment — is heavy. All of these challenges constitute a practical difficulty under the variance test and, thus, support the requested grant of relief.

**D. 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. The rear yard and vehicular access width variances may be granted without causing any adverse impact on the neighboring properties or to the Zone Plan.

The existing rear yard condition of the carriage house/Parish Hall (Lot D) will remain, albeit extended modestly to the south to provide a workable footprint for the new Parish Hall. Likewise, the rear condition of the church building (Lot A), will match the existing rear yard condition of the current underlying lots. Relief from minimum vehicular width requirements will allow the Church to maintain the existing driveway without the need to “de-green” the site significantly by removing existing landscape plantings and mature trees, which would be contrary to environmental and planning objectives and the public interest. The proposed Parish Hall represents an exceedingly modest increase to the overall density on the Property of only 0.05 FAR, and the design is in keeping with the surrounding neighborhood character and will contribute to the area, as affirmed by the concept design approvals already granted for the Project by the HPRB and CFA.

The purpose and intent of the RA-2/CAP Zone is to promote the general welfare of the U.S. Capitol precinct, as discussed above, providing for particular controls for adjacent properties. 11-F DCMR § 400.2. The Project is located at the rear of the Property and will have no visual impact on the nearby U.S. Capitol Grounds. If anything, the Project will upgrade two aging buildings, improving the aesthetic appearance of this area surrounding the U.S. Capitol.

The relief requested will facilitate consolidation of these two aging buildings into one modernized Parish Hall that will allow the Church to better serve the community. The Project will

be more energy efficient than the existing buildings and will visually improve the abutting alley. Accordingly, the Project will not cause substantial detriment to the public good nor impair the integrity of the Zone Plan, but rather will aesthetically improve the Property and its visual impacts on the neighborhood and area surrounding the U.S. Capitol, while also expanding the Church's ability to provide charitable services.

**E. The Design Is an Institutional Necessity and the Needed Design Features Require the Variance Sought.**

As discussed above, the Board is justified in applying the "public good flexibility" doctrine in reviewing variance requests when the applicable two-pronged test is met, showing that (i) the specific design contemplated is an institutional necessity, and (ii) how the needed design features require the specific variance sought. *McDonald*, 291 A.3d at 1124. As described above, the expanded footprint is necessary to accommodate the Church's congregational activities and services, including bible study and choir practice, as well as its important charitable work. The existing carriage house is too small to effectively support these functions, necessitating the expanded footprint, which extends the existing non-conforming rear yard. As discussed above, the new Parish Hall cannot be designed to avoid extending the carriage house to the south, triggering the need for relief, because expanding to the north is impossible due to the abutting alley, and expanding west is infeasible because of the need to maintain separation with the rectory to accommodate that structure's rear yard and maintain vehicular access through to the parking lot on the north side of the Property. Likewise, the relief needed for the church building's rear yard and minimum vehicular access width result from existing conditions that are infeasible to modify to eliminate the requested relief. The rear lot line for the church building (Lot A) cannot be shifted further east due to the abutting Madonna House. As discussed in detail above, the existing driveway providing vehicular access to for the Property cannot be widened without significant

difficulty and expense and substantial negative impacts due to the existing landscaping, mature trees, required mechanical equipment, and other improvements that abut the driveway.

For all of these reasons, the Application qualifies for the additional flexibility afforded for a non-profit organization under the variance test pursuant to the “public good flexibility doctrine” set forth in Court of Appeals decisions.

## **VII. CONCLUSION**

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

/s/ Lawrence Ferris  
Lawrence Ferris