

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

Emory United Methodist Church

1459 Columbia Road, NW
Lot 718 in Square 2672

Preliminary Statement in Support of Compliance with Burden of Proof

I. Overview and Nature of Relief Sought

On behalf of Emory United Methodist Church (the “Applicant”), this statement is submitted in support of an application for an **area variance** pursuant to Subtitle X § 1000.1 from the rear yard requirement of Subtitle F § 207.1.

Pursuant to Subtitle Y § 300.15, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment (“BZA” or “Board”) no fewer than 30 days prior to the public hearing on the application. In this statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board’s approval of the requested relief. The following is a preliminary statement demonstrating how the application meets the burden of proof.

II. Jurisdiction of the Board

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

III. Background

A. Description of the Property and Neighborhood Context

The Property is located in the Columbia Heights neighborhood in Northwest Washington, DC. The Property consists of Lot 718 in Square 2672 and is currently improved with a two-story structure and bell tower last used as a church. As shown on Sheets 3-4 of the architectural plans (the “Plans”), most of the existing two-story structure was constructed in 1914 as an addition to the original two-story church and bell tower.

Square 2672 is bounded by Irving Street NW to the north, Columbia Road NW to the south, 15th Street NW to the west, and 14th Street NW to the east. Multifamily buildings are located to the immediate east and west of the Property, and directly to the south across Columbia Road. The character of the broader surrounding area is a mix of residential, commercial, healthcare, educational, and religious uses. The neighborhood benefits from convenient public transportation, with the Columbia Height Metrorail Station located at the northeast corner of Square 2672 and several WMATA bus routes serving 14th Street NW near the Property.

B. Zoning

1. Zoning District and Permitted Use

As shown on the portion of the Zoning Map submitted herewith, the Property was rezoned to the RA-4 zone pursuant to Z.C. Order No. 24-14. The RA zones are residential zones designed to provide for residential areas suitable for multiple dwelling unit development and supporting uses. *See* Subtitle F § 101.1. Among other purposes, the RA zones are intended to permit flexibility by allowing all types of residential development, promote stable residential areas while accommodating a variety of urban residential neighborhoods, ***and encourage compatibility between the location of new buildings or construction and the existing neighborhood***, as set forth in Subtitle F § 101.2. The RA-4 zone provides for areas predominantly developed with predominantly medium- to high-density residential. *See* Subtitle F § 101.7. As such, residential use is permitted by right in the RA-4 zone. *See* Subtitle U § 401.1(a).

2. Density (FAR)

The maximum floor area ratio (FAR) for developments with Inclusionary Zoning in the RA-4 zone is 4.2. *See* Subtitle F § 201.4. As shown on the Plans, the Project has a proposed FAR of 4.1.

3. Building Height

The maximum permitted building height for the Property is 90 feet with no limit on the number of stories. *See* Subtitle F § 203.2. The Project has a proposed building height of 80 ft. 4 in. and seven stories over the cellar.

4. Lot Occupancy

The maximum permitted lot occupancy in the RA-4 zone is 75%. *See* Subtitle F § 210.1. The proposed lot occupancy for the Project is 74%.

5. Rear Yard

The minimum rear yard for a property located in the RA-4 zone is equal to four inches per one foot of building height, but not less than 15 feet. *See* Subtitle F § 207.1. As the proposed building is 80 ft. 4 in. in height, the minimum required rear yard is 26 ft. 8 in. As described herein, the Applicant requests an area variance from the rear yard requirements.

6. Side Yard

A side yard is not required in the RA-4 zone but if provided, it must be not less than four feet. *See* Subtitle F § 208.3(b). There is no side yard proposed for the Project.

7. Courts

A court is not required in the RA-4 zone but if an open court is provided for a residential structure containing three units or more, the court must have a minimum width of 4 in. per 1 ft. of height of the court but not less than 10 ft. *See* Subtitle F § 209.1. As shown on Sheet 8 of the Plans, the Project includes two open courts: Court #1 is located at the northeast corner of the Property and has a width of 41 ft. 6 in. and Court #2 is located above the Church at the southwest corner of the Property and has a width of 32 ft. 6 in.

8. Green Area Ratio

The minimum Green Area Ratio (GAR) for a property located in the RA-4 zone is 0.3. *See* Subtitle F § 211.1. The Project proposes a GAR of 0.3.

9. Vehicle Parking

A multiple dwelling building requires one parking space for every three dwelling units in excess of four dwelling units. *See* Subtitle C § 701.5. The Project proposes 87 dwelling units, which yields a vehicle parking requirement of 28 spaces. Under Subtitle C § 702.1, this requirement can be reduced by 50% due to the Property's proximity within one half mile of a Metrorail station, resulting in a vehicle parking requirement of 14 spaces. Additionally, Subtitle C §§ 708.1 and 708.2 permit dedicated car-share spaces to count toward the required parking in zones other than R or RF, with up to two car-share spaces counting as three required vehicle parking spaces. The Project is providing 8 standard vehicle parking spaces and two car share spaces, each credited as three parking spaces; thus, the Project meets the 14-vehicle parking space requirement.

10. Bicycle Parking

The same use category requires one short-term bicycle space for each 20 dwelling units and one long-term bicycle space for every three dwelling units for a total of five short-term spaces and 29 long-term spaces for this Project. *See* Subtitle C §§ 701.5 and 802.1. The Project meets these requirements by providing five short-term bicycle spaces and 29 long-term bicycle spaces.

11. Loading

A residential use with more than 50 dwelling units must provide a minimum of one loading berth and one service/delivery space. *See* Subtitle C § 901.1. The Project is providing one loading berth and one service/delivery space at the northwestern corner of the Property.

C. Proposed Residential Development

As shown on the Plans submitted herewith, the Applicant proposes to demolish portions the existing church building and to construct as an addition a new multiple dwelling building consisting of 87 units (the "Project"). The building will contain approximately 88,266 square feet of gross floor area and will be constructed to a height of 80 ft. 4 in. The Project will include a mix of studio, one-, and two-bedroom units. The Project will provide the required Inclusionary Zoning

Plus units. The building will contain over 2,700 sq. ft. of amenity space on the first floor. Moreover, the Project will incorporate portions of the existing church into the new development, which enhances the compatibility and visual appeal of the Project.

IV. Variance Relief

The Applicant is requesting variance relief from the rear yard requirement set forth in Subtitle F § 207.1, which requires a minimum rear yard of a distance equal to four inches per one foot of building height. As the proposed residential building height is 80 ft. 4 in., the required minimum rear yard is 26 ft. 8 in. The Project does not include any rear yard area.

A. Burden of Proof

Under D.C. Code § 6-641.07(g)(3) and 11-X DCMR § 1000.1, the Board is authorized to grant a variance from “the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02” when the following conditions are met:

1. the property is affected by exceptional size, shape, or topography or other extraordinary or exceptional condition or situation;
2. the owner would encounter peculiar and exceptional practical difficulties or undue hardship if the zoning regulations were strictly applied; and
3. the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See *French v. D.C. Bd. of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. D.C. Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); see also *Capitol Hill Restoration Society, Inc. v. D.C. Bd. of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

The Zoning Regulations distinguish between area variances and use variances. In this case, the Applicant’s request for relief from the rear yard requirements of Subtitle F § 207.1 is properly evaluated as an area variance because it seeks relief from an area requirement applicable to the zone district in which the Property is located (Subtitle X § 1001.2).

Thus, the Applicant must prove that, as a result of the attributes of a specific piece of property described in Subtitle X § 1000.1, the strict application of Subtitle F § 207.1 would result in peculiar and exceptional practical difficulties. As discussed below, and as will be further explained at the public hearing, the subject application meets the three-prong variance test.

B. Justification

i. Extraordinary or Exceptional Condition or Situation

The Property is unique due to a confluence of factors that create an exceptional situation. See *Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). Moreover, the

exceptional situation pertains not only to the land itself but also to the existing improvements on the Property. This is consistent with the principle, long recognized in BZA jurisprudence, that an exceptional situation or condition can relate to the property as a whole, not merely the land. See *Clerics of St. Viator v. D.C. Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974) (“It makes no practical difference whether the inability to use property in accordance with zoning regulations stems from topographical conditions of the land itself or from the existence of a structure on the land.”).

The Property is singularly affected by exceptional and unique conditions arising from the existing structure and physical configuration of the Property. The size and footprint of the portions of the church structure to be incorporated into the project is unique to this Property and creates an exceptional situation as it relates to development on the Property. Although not historic, portions of the church, including the bell tower, have significant architectural features that will be preserved and incorporated into the project, including: (i) the original interior floors and ceilings; (ii) exterior windows and walls; (iii) existing roof and dormers; and (iv) the overall structure of the bell tower. Incorporating these existing features into the project results in increased construction costs and coordination. For example, the Applicant will have to strengthen the foundation/base of the portions of the church to remain and be incorporated into the project.

The footprint of the existing portion of the Church to remain covers approximately 2,740 square feet. The building restriction line has a length of 139 feet and depth of 20 feet, thus resulting in an area of 2,780 square feet. Because of the location of the existing portions of the church to remain, combined with the existence of the building restriction line along the southern property line, approximately 5,520 square feet (i.e., 28% percent) of the Property’s land area is unusable.

The above-described footprint of the portion of the church to remain, coupled with the goal of preserving elements of the church, create an exceptional situation, imposing significant design and programmatic constraints that generate the need for zoning relief. See *Clerics*, 320 A.2d at 294 (stating that the exceptional situation or condition applies not only to the land but also to the existence and configuration of a building on the land).

ii. Peculiar and Exceptional Practical Difficulty

There is a clear nexus between the Property’s unique conditions and the practical difficulties that would result from strict application of the rear yard requirement under Subtitle F § 207.1. Under Subtitle F § 207.1, a minimum rear yard equal to four inches per one foot of building height, but not less than 15 feet must be provided. As the proposed building is 80 ft. 4 in., the required rear yard must be 26 ft. 8 in. **However, due to the portions of the church to remain and the building restriction line, the massing of the proposed building is shifted to the rear of the Property, resulting in a peculiar and exceptional practical difficulty in providing a compliant rear yard.**

Although the church is not a designated landmark, guidance for incorporating portions of the Church into the new project can be found in Historic Preservation Review Board (“HPRB”) decisions. The HPRB has frequently cited the principle that an addition should be subordinate to the historic building to which it is being added, and for additions that are larger than the buildings

to which they are attached, HPRB has found them to be compatible “if the addition can convincingly appear as a separate building to the rear or side of the historic building...”.

Consistent with this premise, the proposed new construction for the Property will be constructed to the north and east of the portions of the church to remain. There will be no new construction above the portions of the church to remain, thus forgoing significant density along the Columbia Road frontage. To offset lost density, the Applicant plans to increase density at the rear of the Property, requiring rear yard relief.

As shown on the Plans, providing a compliant rear yard would significantly further reduce the buildable area, as well as the viability of the residential units that are proposed with the Project. To provide a compliant rear yard, approximately 17,850 square feet of gross floor area would need to be removed from the overall building, which equates to roughly 22% of the total proposed gross floor area (79,689 square feet). A total of 23 residential units would be lost.

Moreover, a typical residential building on a regularly shaped site has a building efficiency ratio of approximately 85%, which the Applicant is able to achieve here as a result of the requested rear yard relief. However, given the property’s constraints, providing the required rear yard would reduce the building’s efficiency to approximately 79%. Although this might seem like a nominal difference, the decrease would have a detrimental impact on the project. To further illustrate this point, in a residential building, a typical double-loaded corridor has floor plate depths (façade to façade) that allow for reasonable unit depths on each side of the corridor, adequate daylight to habitable rooms, and efficient structural and MEP layouts. However, given that the footprint of the existing portion of the church to remain covers approximately 2,740 square feet, combined with the fact that the Applicant is not building anything above that footprint, providing a rear yard would not only result in 23 fewer units, but would also adversely impact the design and layout of the residential units, such as:

- Deep, single-aspect units;
- Bedrooms far from windows;
- Living spaces requiring artificial lighting during daytime;
- Awkward, inefficient layouts;
- Increased dependence on mechanical ventilation;
- Higher energy use; and
- Increased risk of stagnant interior air and thermal discomfort.

Because the construction of the new building is “subordinate” to the existing portions of the church to remain and consequently pushed to the rear of the Property, providing a compliant rear yard is practically difficult in this case.

iii. No Substantial Detriment to the Public Good or Substantial Impairment to the Intent, Purpose or Integrity of the Zone Plan

Granting the requested variance would allow the proposed Project without resulting in substantial detriment to the public good or substantial impairment to the intent, purpose, or integrity of the Zoning Regulations or Zoning Map. The Project will deliver 87 new residential units—including a mix of studio, one-bedroom, one-bedroom plus den, and two-bedroom units in a transit-accessible location. It will also provide Inclusionary Zoning (IZ) units, contributing to affordable housing opportunities in the neighborhood. Accordingly, the requested relief aligns with the District’s goals of expanding housing supply, increasing housing diversity, and improving accessibility for residents of all income levels.

Moreover, the variance supports the purposes of the RA zones, as discussed above and as set forth in Subtitle F § 101.1 *et seq.*, which are intended to promote flexibility by allowing a variety of residential development types and to foster stable, walkable residential neighborhoods. The requested relief would not alter the character of the surrounding neighborhood. The variance also advances the goals of the RA-4 zone, which is intended for areas with predominantly medium- to high-density residential.

Further, although no rear yard is proposed, the Project includes an open court that has an area of 2,378 square feet located at the northwest corner of the site. The area of this court is comparable in size to the area that would be provided in a compliant rear yard, which would be approximately 3,700 sq. ft. in area.¹ This court will provide light, air, and ventilation to future residents.

In addition, the rear lot line abuts a 20-foot-wide public alley, and to the immediate north of the public alley are vacant lots owned by the District. The closest buildings to the immediate north of the rear lot line are over 140 feet away. Lastly, the Project is consistent with other nearby multifamily residential buildings of similar height, which are located on the property line and provide a court or open space to address rear yard relief, such as the property located at 1444 Irving Street NW shown below.

¹ The Property’s width is 139 feet. The required rear yard depth is 26 feet, 8 inches. Thus, the required rear yard would have an area of 3,700 square feet.

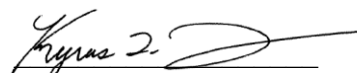


In light of the above, the requested relief is appropriate and would not result in any substantial impairment to the purpose or integrity of the Zoning Plan.

V. Community Outreach and Engagement

The Property is located within the boundaries of Advisory Neighborhood Commission (ANC) 1A and is within Single-Member District 1A-03. In accordance with Subtitle Y § 300.8(1), the Applicant has apprised the affected ANC of this application. The Applicant anticipates presenting the application to the ANC in April.

The Applicant intends to work closely with the ANC to address any issues or concerns and will supplement the record regarding outreach efforts at least 21 days before the public hearing.


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