



March 28, 2018

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Frederick L. Hill, Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Suite 200S
Washington, DC 20010

**Re: BZA Case No. 19736 – 1928 15th Street SE
Applicant's Prehearing Statement**

Chairperson Hill and Honorable Members of the Board:

On behalf of the Applicant, Mi Casa Inc., please find enclosed the Prehearing Statement for the above-referenced case. The application is scheduled to be heard before the Board of Zoning Adjustment on April 18, 2018.

Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

Alyssa L. Bigley

LEGAL\34995721\1

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

**APPLICATION OF
MI CASA INC.**

**BZA CASE NO. 19736
HEARING DATE: APRIL 18, 2018**

APPLICANT'S PREHEARING STATEMENT

I. EXECUTIVE SUMMARY AND RELIEF SOUGHT

This Prehearing Statement is submitted on behalf of the Applicant, Mi Casa Inc. (the "Applicant"), a non-profit organization and the contract purchaser¹ of the property located at 1928 15th Street SE (Square 5766, Lot 0800) (the "Property") in support of its application for variance relief, pursuant to 11 DCMR Subtitle X § 1000.1, from the development standards for lot dimension (Subtitle D § 302.1) and for free-standing side yard (Subtitle D § 307.4), in order to construct a semi-detached, single-family home in the R-3 zone (the "Project"). While the Applicant has not amended the Project architectural plans since the initial filing, relief from Subtitle D § 307.4 has been added since that time; accordingly, the Applicant has attached a revised zoning self-certification form at **Tab A**.

II. FREE-STANDING SIDE YARD RELIEF

The initial application requested area variance relief for the Property's lot dimensions because the Applicant proposes to construct a new single-family home on the currently-unimproved Property. The Applicant now requests relief from Subtitle D § 307.4 because the Project will not provide a side yard on the resulting freestanding side of the structure constructed along the property line to the north. See Architectural Plans at BZA Ex. No. 6. Notably, the Project's southern side yard is 8 feet and fully compliant with the development standards for the R-3 zone.

¹ The Property is owned by the District's Department of Housing and Community Development, which has authorized the Applicant to develop the Property.

It must be noted that Zoning Commission Case No. 17-23 is a proposed text amendment (the “Text Amendment”) that would, amongst other changes, eliminate Subtitle D § 307.4 that requires a side yard for new construction in the R Zones. The Text Amendment proposes to add Subtitle D § 206.6 stating “No side yards are required in an R-3, R-13, or R-17 zone; however, if a side yard is provided, it shall be a minimum of five feet (5 ft.)” As of the filing of this application, however, the Text Amendment has not been approved by the Zoning Commission. Therefore, the Applicant submits this additional request for zoning relief in order to construct the Project in compliance with the Regulations as they currently stand.

III. THE APPLICANT MEETS BURDEN FOR VARIANCE RELIEF

A. Nature of Variance Relief and Standard of Review

Given the related nature of the side yard relief to the lot dimension relief, the Applicant incorporates the arguments made in the initial application and maintains that the Project satisfies the standard for area variance relief from the free-standing side yard requirement. By way of brief review, under D.C. Code § 6-641.07(g)(3) and 11 DCMR § X-1000.1, the Board is authorized to grant an area variance where it finds that:

- (1) The property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) The owner would encounter practical difficulties 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. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)).

The Applicant reiterates that the Board may apply a more flexible standard of review when it assesses a non-profit, public service organization. *See Monaco v. D.C. Bd. of Zoning Adjustment*, 407 A.2d 1091, 1097 (1979). As part of this reduced standard of review, the Board may more fully weigh the equities of an individual case, including

consideration of the property owner's needs, in finding an exceptional situation or condition. *See Monaco* at 1098; *see also National Black Child Development Institute, Inc. v. D.C. Bd. of Zoning Adjustment*, 483 A.2d 687, 690 (1984). Here, the Board should apply a reduced standard of review because the Applicant is a non-profit organization seeking to provide affordable, family-sized housing as part of the Project.

B. The Property is Affected by an Exceptional Situation or Condition

As outlined in the initial application, the Property is characterized by an exceptional situation or condition arising from a confluence of three factors: (1) the Property is an unimproved corner lot with an abutting neighboring side yard; (2) the Property is located in the Anacostia Historic District; and (3) the Project is subject to the Applicant's particular programmatic needs.

C. Strict Application of the Zoning Regulations Would Result in Practical Difficulty

Strict application of the Zoning Regulations with respect to lot dimensions and side yard would result in a practical difficulty to the Applicant. In regard to lot dimensions, as a corner lot, there is only one abutting property, but that property to the north has its own side yard. This means that the Project *cannot* share a common division wall with any other property, and, therefore, the Project *cannot* be an attached dwelling under the Zoning Regulations. It follows that the Applicant cannot meet the lot dimension requirements for any other type of dwelling at the Property pursuant to Subtitle D § 302.1.

In addition, the Property is only 28 feet wide, and if the Applicant were required to provide a compliant side yard on both sides of the Project, the resulting structure would be extremely narrow at only 12 feet wide. The Project would be much narrower than the other structures along 15th Street SE. Furthermore, a 12-foot wide house would result in difficulties to the Applicant in satisfying certain Building Code requirements, including, but not limited to, stairwell widths for

new construction. Additionally, the resulting Project's design would not meet the historic preservation requirements in the Anacostia Historic District.

Therefore, although the Property is unimproved, the Applicant would face a practical difficulty in providing two compliant side yards due to its location next to an abutting property with a side yard. Consequently, the practical difficulty the Applicant faces in complying with the side yard requirement is directly related to the unique confluence of factors impacting the Property.

D. No Substantial Detriment to the Public Good or Impairment of the Zone Plan

There will be neither substantial detriment to the public good nor substantial impairment of the intent, purpose, and integrity of the zone plan by approving the requested relief for lot dimensions and side yard. The Project will align with other properties along 15th Street SE by height, design, and size. Furthermore, the neighborhood, which is overwhelmingly residential in nature, will be undisturbed. The Applicant has designed the Project to fit with the scale and pattern of homes in the neighborhood, including as to the neighborhood's historic aspects. In fact, the Project will benefit the community by adding a new single-family affordable home to the neighborhood. To that end, the Project implements several goals in the District's Comprehensive Plan that encourage development of affordable housing.

Importantly, except for the requested lot dimensions and side yard relief, the Project complies with the development standards of the Zoning Regulations for the R-3 Zone. The Project meets the requirements for height and stories, front setback, and rear yard. The Project does not have a parking requirement because, pursuant to Subtitle C § 702.3, a semi-detached single-family dwelling with no access to an "open, improved, and public alley with a right of way of ten feet

width minimum” is not required to provide an off-street parking space.² Thus, the requested relief does not impair the Zone Plan.

IV. COMMUNITY OUTREACH

Since filing the application, the Applicant presented the Project to the ANC 8A Executive Committee on March 19th and has conducted extensive community outreach in the neighborhood surrounding the Property. The Applicant will present the Project to the full ANC at their regularly scheduled meeting on April 3, 2018, and will provide an update to the Board. The Applicant has also previously presented the Project to ANC 8A during the HPRB application process and received a vote of support. Finally, it should be noted that the Applicant has received several letters of support for the Project, which will be filed into the record accordingly.

V. PROPOSED CONDITIONS

1. Interior partition locations, size, and location of units and stairs are preliminary and shown for illustrative purposes only. Final layouts, design and interior plans may vary to the extent that such variations do not require additional relief from the Zoning Regulations and such that the variations do not change the external configuration or appearance of the building.

2. Flexibility to vary the final selection of exterior materials within the color ranges of the material types and based on the availability at the time of construction, without reducing the quality of materials or intent of the original design.

3. Flexibility to make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings trim, and windows or that are otherwise necessary to obtain a final building permit to the extent that such changes do not require additional relief from the Zoning Regulations and such that the variations do not change the external configuration or appearance of the building.

VI. CONCLUSION

For the reasons stated above, enumerated in the Applicant’s prior filings, as well as discussed at the Board’s hearing, the Applicant submits that the application meets the requirements

² While the Property does not currently have access to the public street (neither U Street nor 15th Street SE) via curb cut, the Applicant intends to request a curb cut from DDOT and will work with them in that regard, but the determination for granting such access ultimately lies with DDOT.

for area variance relief. Accordingly, the Applicant respectfully requests that the Board approve the application on April 18, 2018.

Respectfully submitted,
COZEN O'CONNOR



Alyssa L. Bigley

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of March, 2018, a copy of the foregoing Prehearing Statement was served, via electronic mail, on the following:

District of Columbia Office of Planning
c/o Elise Vitale
1100 4th Street SW, Suite E650
Washington, DC 20024
Elise.Vitale@dc.gov

Advisory Neighborhood Commission 8A
c/o Troy Donte Prestwood, Chairperson
2317 16th Street SE, Unit 101
Washington, DC 20020
8A04@anc.dc.gov

Advisory Neighborhood Commission 8A
c/o Travon Hawkins, SMD Commissioner
1917 16th Street SE
Washington, DC 20020
8A05@anc.dc.gov



Alyssa L. Bigley

TAB A



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



FORM 135 – ZONING SELF-CERTIFICATION

<i>Project Address(es)</i>	<i>Square</i>	<i>Lot(s)</i>	<i>Zone District(s)</i>
1928 15th Street SE	5766	800	8A

Single-Member Advisory Neighborhood Commission District(s): **8A05**

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is requested from the Board of Zoning Adjustment in this matter pursuant to:

Relief Sought	<input type="checkbox"/>	X § 1000.1 - Use Variance	<input checked="" type="checkbox"/>	X § 1002.1 - Area Variance	<input type="checkbox"/>	X § 901.1-Special Exception
Pursuant to Subsections			Subtitle D-302.1 D-307.4			

Pursuant to 11 DCMR Y § 300.6, the undersigned agent certifies that:

- (1) the agent is duly licensed to practice law or architecture in the District of Columbia;
- (2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia; and
- (3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.



The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment (BZA) does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the BZA.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this form is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both.
(D.C. Official Code § 22-2405)

 <i>Owner's Signature</i>		Mi Casa Inc. <i>Owner's Name (Please Print)</i>	
 <i>Agent's Signature</i>		Eric J. DeBear <i>Agent's Name (Please Print)</i>	
Date	3.28.18	D.C. Bar No.	1016909
or	Architect Registration No.		

INSTRUCTIONS

Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on this form. All certification forms must be completely filled out (front and back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form.
2. Complete one self-certification form for each application filed. Present this form with the Form 120 - Application for Variance/Special - Exception to the Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001.

ITEM	EXISTING CONDITIONS	MINIMUM REQUIRED	MAXIMUM ALLOWED	PROVIDED BY PROPOSED CONSTRUCTION	VARIANCE Deviation/Percent
Lot Area (sq. ft.)	2,688 sq. ft.	3,000 sq. ft.		2,688 sq. ft.	312 sq. ft.
Lot Width (ft. to the tenth)	28'	30'		28'	2'
Lot Occupancy (building area/lot area)					
Floor Area Ratio (FAR) (floor area/lot area)					
Parking Spaces (number)					
Loading Berths (number and size in ft.)					
Front Yard (ft. to the tenth)					
Rear Yard (ft. to the tenth)					
Side Yard (ft. to the tenth)		8'		One compliant side yard provided	Relief Requested for Freestanding Side
Court, Open (width by depth in ft.)					
Court, Closed (width by depth in ft.)					
Height (ft. to the tenth)					

If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete Form 155 - Request for Reasonable Accommodation.

