

September 26, 2018

Via IZIS

Board of Zoning Adjustment
441 4th Street, NW
Suite 200
Washington, DC 20001

**Re: Supplemental Prehearing Statement of the Applicant- BZA Case No. 19828 of 3423
Holmead Place, LLC; 3423 Holmead Place, NW**

Dear Members of the Board:

After discussions with the Office of Planning and the District Department of Transportation, the Applicant is supplementing the record to address each agency's conditions and comments.

DDOT Conditions

In its report, DDOT conditioned its non-opposition to the Application on: (1) the Applicant maintaining the existing 8.5 ft. landscape buffer between the sidewalk and the street and adding a tree; and (2) the Applicant working with DDOT to remove the "No Parking on Sunday" signage. The Applicant has agreed to both conditions. An updated site plan reflecting the grass landscape buffer and addition of one (1) tree has been included with this submission.

Height Relief

The Office of Planning had a question as to whether the Applicant needed special exception relief for the height of the building (proposed height of 40 ft.). The Applicant would like to clarify that the special exception relief requested (U § 320.3), is in fact for the height of the building (the "Building"); the conversion would be permitted as a matter-of-right if the Applicant were staying within thirty-five feet (35 ft.) and not removing the existing steeple. Because the Applicant does not meet the matter-of-right requirements for a conversion of a non-residential building to a residential building, the regulations direct it to request special exception relief from U § 320.3. Requesting additional special exception relief for the height would be redundant, as would requesting relief for modifying the architectural elements, as both

requirements are included in the special exception relief for a conversion not meeting the matter-of-right conversion requirements.

Stronger Variance Argument

The Office of Planning also requested that the Applicant provide a stronger variance argument for the request for a fourth story. As discussed in the Applicant's Statement submitted with the Application (Exhibit 5), the Applicant is faced with an exceptional condition related to the existing improvements on the Subject Property, including the existing lower level and the difficulties that come with the adaptive re-use of the existing non-residential church Building. Had the lowest level been originally designed as a cellar, rather than a basement, as is the case with the adjacent properties, the Applicant would be permitted to have a cellar level and three stories (i.e. the same number of floors that is proposed by the current project). It is only because the lowest level was originally designed six feet (6 ft.) above grade that it is considered a basement and therefore counts as a story. This situation is unique to the Subject Property, as none of the other adjacent properties have this issue, which is why they are so much taller than even the proposed building—they have cellars.

In ZC Case 17-18, the Zoning Commission voted to approve new regulations which amended the rules of measurement for the number of stories in Subtitle B § 310. Specifically, B § 310.6 states: "For a building where the finished floor of the ground floor is removed or altered in height in association with a renovation where a raze of the building has not occurred, the higher of the previously existing or new finished floor of the ground floor shall be used for counting the number of stories." These regulations were intended to prohibit building owners—who are not razing a building— from lowering the finished floor of the ground floor in order to convert a basement into a cellar. The special exception conversion request is predicated on the fact that the Applicant will be using the shell of the existing non-residential Building as the basis for the conversion and therefore the Applicant is not permitted to raze the Building.

Prior to the regulations taking effect on August 17, 2018, the Applicant would have been permitted to lower the floor of the first floor to make it into a cellar. The original variance argument considered the difficulty of moving that lowest level. As the regulations now prohibit the Applicant from dropping the first floor to make the lowest level a cellar, that argument is no longer relevant. The Applicant now faces an even greater practical difficulty because it does not have the option to change the basement into a cellar, even if the cost was going to be very high. Due to this exceptional condition related to the lowest level, the

Applicant will be faced with a practical difficulty if the Zoning Regulations are strictly applied because it is only permitted to have two additional floors instead of three.

The loss of this additional story creates a practical difficulty for the Applicant in a number of ways: (1) the Applicant would be limited in either the number of units or the size of the units, creating feasibility issues for the project; (2) the Applicant would not be able to achieve its matter-of-right height or even special exception height (in this case), leading to design issues; (3) there is no alternative to the variance relief for the additional story, as the Building cannot be razed without eliminating the special exception for the conversion.

(1) Feasibility Issues

Were the Applicant limited to a three-story building, it would be forced to either eliminate proposed units to maintain family-sized units or to provide seven smaller units. This particular special exception relief being requested—relief from the height requirements and architectural elements requirements within the matter-of-right conversion requirements—was designed to encourage the adaptive reuse and contemplated that certain issues would arise when using an existing building footprint. One of the issues that the Applicant faces is how to achieve the maximum permitted height and density in order to make the adaptive re-use of the Building financially feasible. The 900 ft. rule permits the Applicant to achieve a total of seven (7) units on the Subject Property (total land area of 6,350 square feet) and the Building is permitted to achieve thirty-five feet (35 ft.) in height as a matter-of-right, and forty feet (40 ft.) in height with this special exception.

Were the Applicant unable to provide the fourth story, the unit layout would need to be completely redesigned to achieve the permitted seven units, resulting in smaller units. Practically speaking, providing seven, smaller units creates a difficult situation for the Applicant because it would face a loss even before the project began, making the project less feasible and impacting the overall budget and potentially the quality of the units and fixtures.

(2) Design Issues

The most obvious practical difficulty if the Applicant were not permitted to have a fourth story would be issues with designing the Building to be compatible with the surrounding area. The existing non-residential structure requires significant interior and exterior renovations in order to fit the existing residential character of the neighborhood. The required relief is driven by a desire to maintain the character, pattern, and scale of buildings on this block through the adaptive reuse of an old church. The adjacent buildings are all taller than the existing and proposed Building, because the lowest levels of the adjacent buildings do not

count as stories. If the regulations were strictly enforced, the Applicant would be limited to three stories, which in this case results in a height of approximately twenty-four feet (24 ft.). In order to achieve the matter-of-right height of thirty-five feet (35 ft.), the Applicant would have to provide extremely tall stories which would be out of character. Even with normal story heights, a building with only three stories would be significantly out of character with the surrounding properties. This discontinuity could prevent the Applicant from obtaining the other areas of requested relief, as E § 5201 and U § 320.3 require that the project not substantially visually intrude upon the character, scale, and pattern of houses along the subject street.

(3) Matter-of-Right Alternative

The only matter-of-right alternative to achieving the additional story would require the Applicant to raze the Building. Were the Applicant to raze the existing Building, it would be permitted to subdivide the Subject Property into two, twenty-five foot (25 ft.) wide properties, and construct two flats (2-unit dwelling) on the site. In that case, the Applicant would be able to construct a cellar level and three stories but would only be permitted to achieve a total of four (4) units. This alternative is not feasible as the Applicant would have to demolish the existing building and reconstruct two new buildings and end up with only four (4) units. A conversion would not be possible once the building is razed, so the only alternative to obtaining the same number of units would be to request a variance.

Conclusion

While the issues with feasibility, design, and the lack of a matter-of-right alternative may not individually rise to the level of a practical difficulty, together they certainly create a situation where the Applicant faces a practical difficulty: the project will look out of place with the surrounding area which forces the Applicant to design a building that cannot meet one of the special exception criteria request, and the units will be harder to sell because the adjacent buildings will be towering over them; the units will be smaller, decreasing the overall feasibility of the project; and there is no feasible matter-of-right alternative to achieving the permitted number of stories because a matter-of-right project would only provide a total of four (4) units. Accordingly, without the additional story, the existing church Building would remain a vacant eyesore, unlikely to be developed due to the difficulties with the lowest level, and unlikely to be razed and then rebuilt considering only four (4) units could be permitted overall as a matter-of-right.

The project is compatible with the surrounding area, the community is generally supportive, and the variance would help provide for the adaptive re-use of a vacant church Building and provide seven quality family-sized residential units.

Sincerely,

Martin P Sullivan

Martin P. Sullivan