



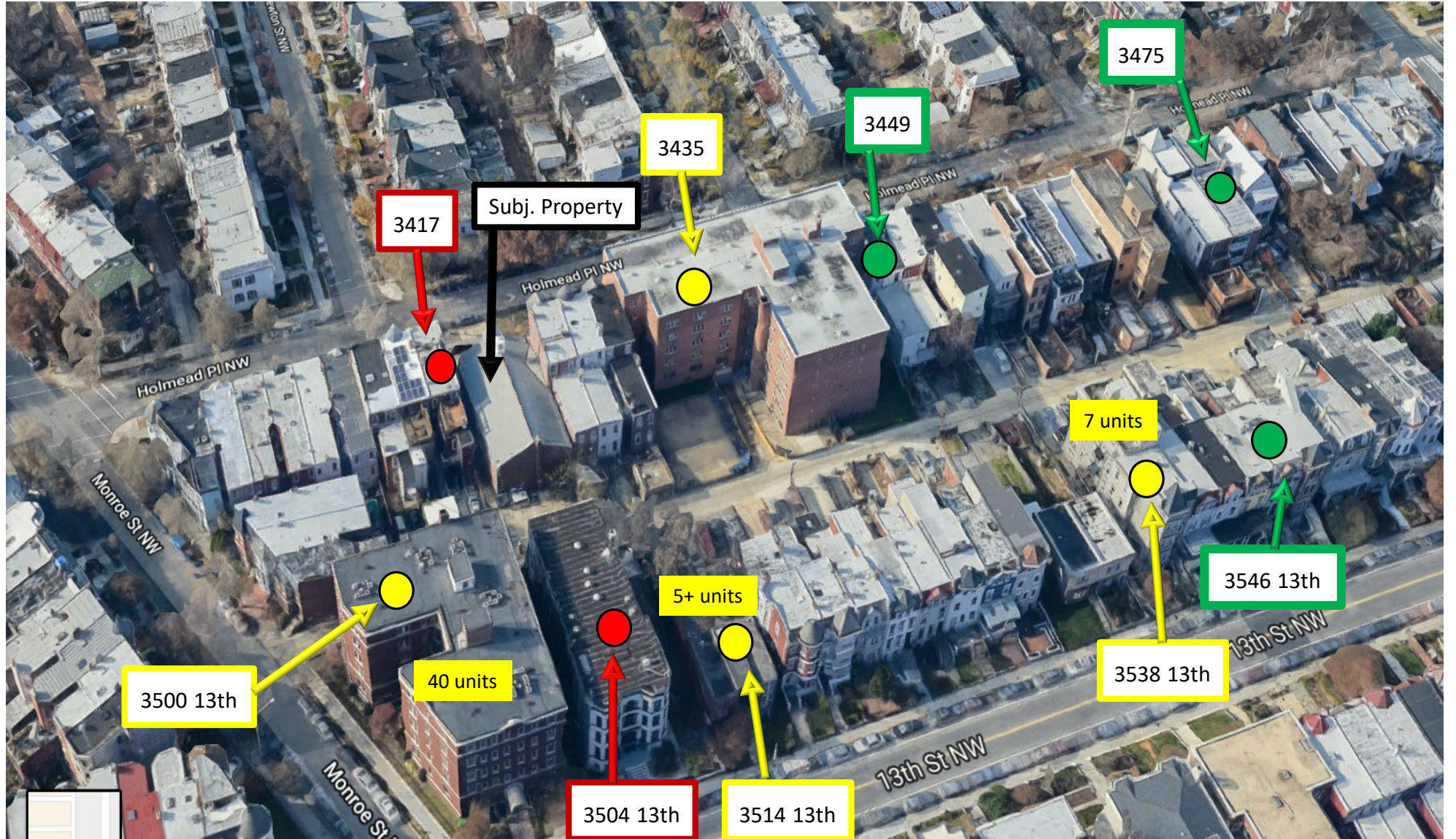
BZA CASE NO. 19828
OF 3423 HOLMEAD
PLACE LLC

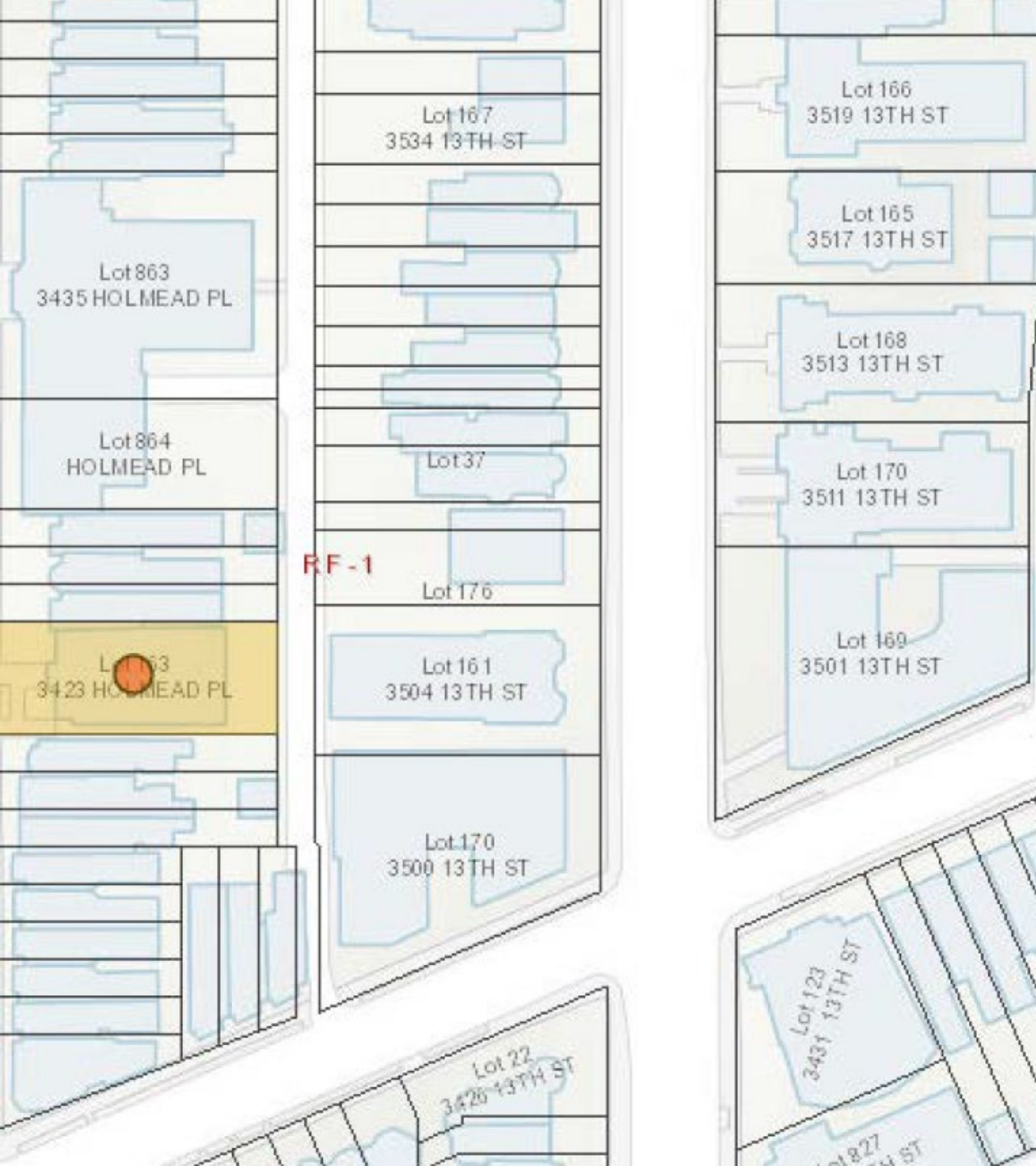
3423 HOLMEAD PLACE NW
OCTOBER 17, 2018

Overview

- Subject Property is currently improved with a two-story building originally constructed as a church and used as a church until the recent purchase by the applicant
- Applicant is proposing to convert, subject to U-320.3, which provides for the adaptive re-use of non-residential buildings
- The project will be compatible with the neighborhood
- Both adjacent buildings are multiple family dwellings and Holmead place in general contains several apartment building

- 3 units
- 4 units
- 5+ units





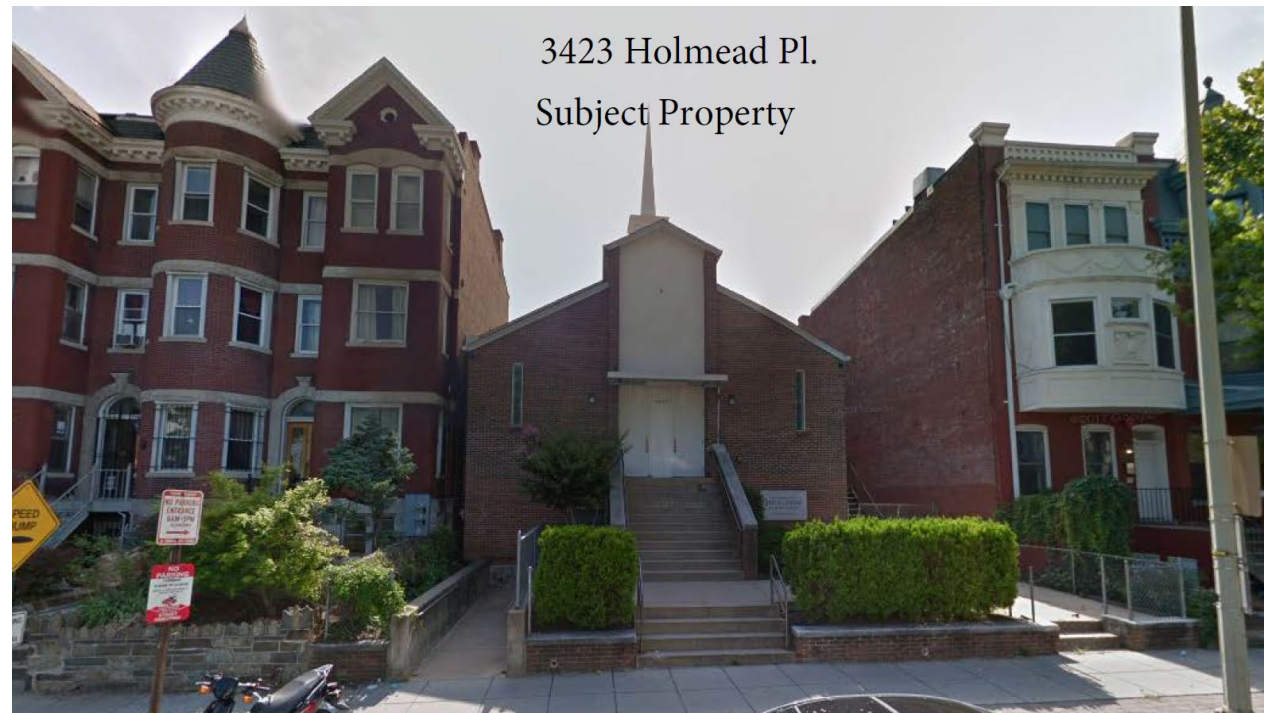
Zoning Map

View to the North of the Subj. Property



Existing Conditions and Proposed Project

- Proposing to convert the existing church building into a residential building with seven (7) residential units
- Proposing to construct an addition that will be considered a fourth (4th) story because of the existing condition of the first level
- Infill the existing eight (8 ft.) side yard on the Subject Property's south lot line, thus creating an attached building
- The top story Addition will be set back eight feet (8 ft.) from the front façade of the Building
- Removing existing church steeple
- Remove existing stairs and awning at the front of the Building

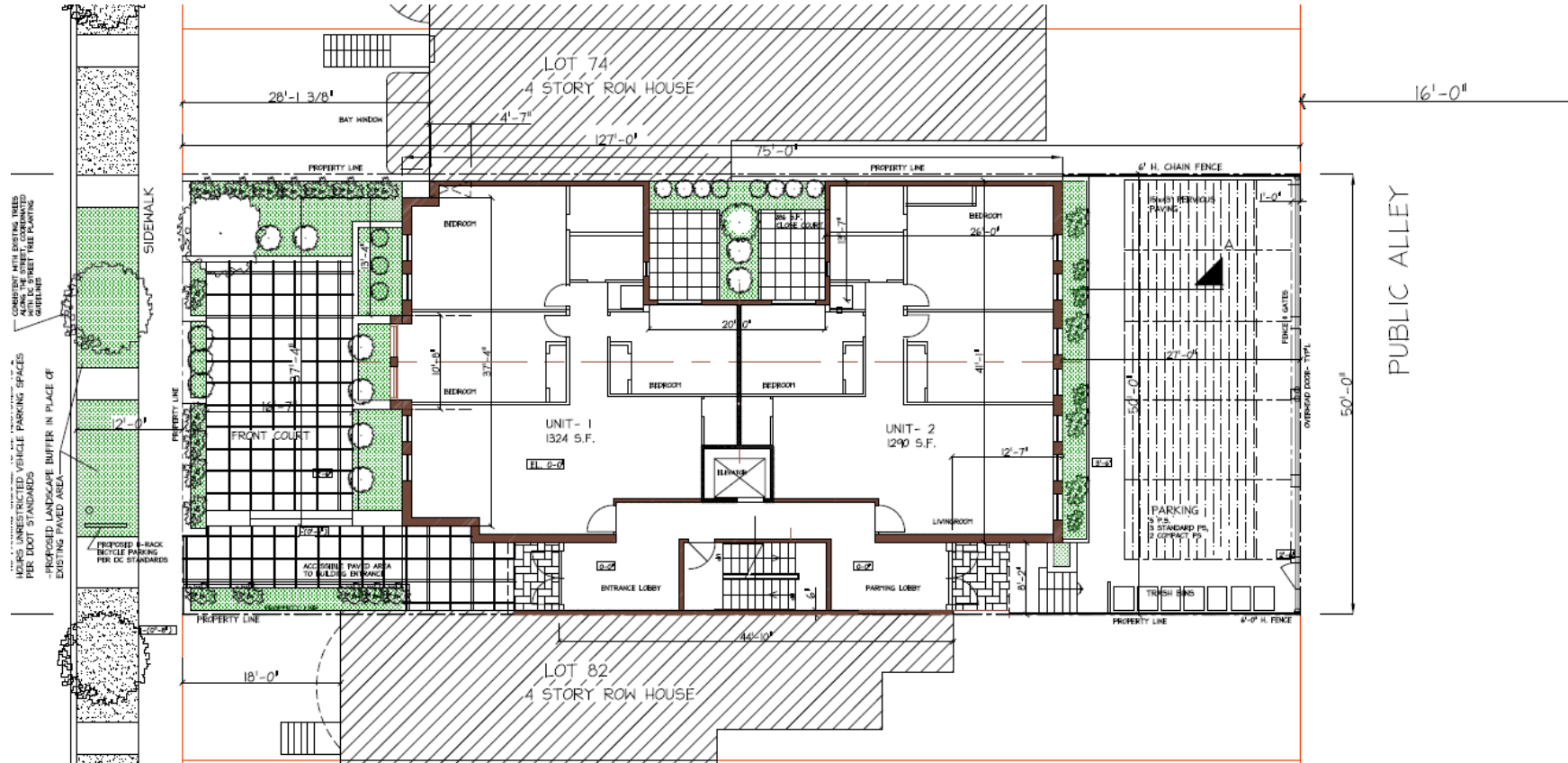


Description of Project

- No addition at the rear of the Building and will maintain the existing twenty-seven-foot (27 ft.) rear yard setback
- Lot occupancy of the Project will be limited to fifty-two percent (52%)
- Height is being increased to forty feet (40 ft.), from the existing height of thirty-three feet and ten inches (33 ft.10 in.)
- Adjacent buildings are taller than the proposed Building, the Applicant is proposing a parapet wall to maintain the appearance of continuity
- Overall height is prompted by the desire to design the Building for greater compatibility with the adjacent buildings and by the immovable location of the first floor level

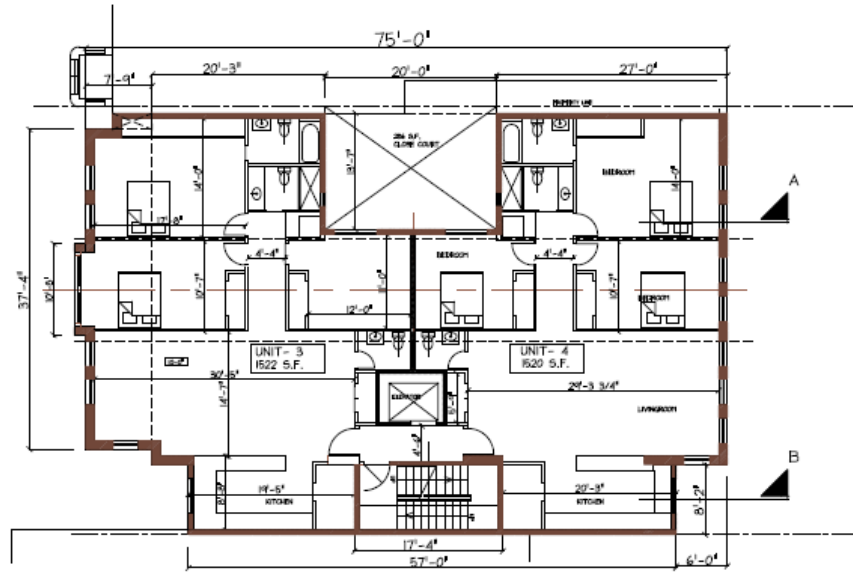


Proposed Site Plan

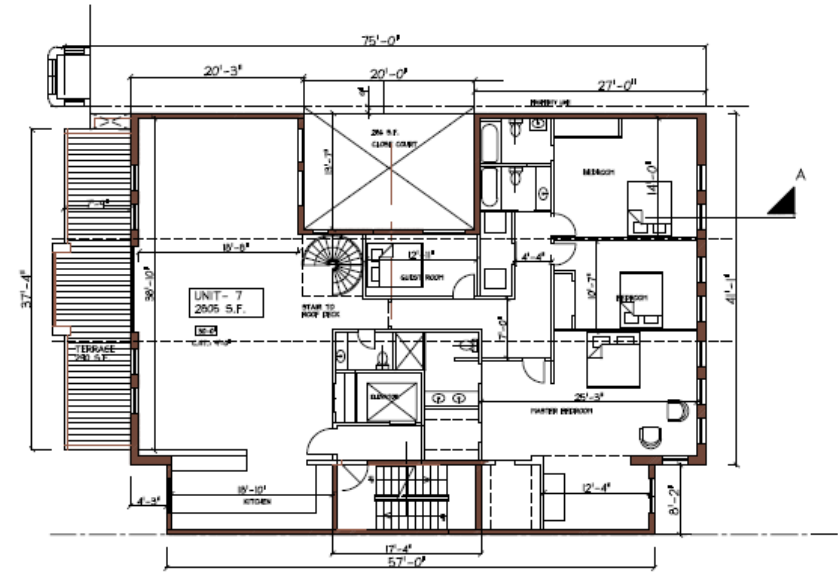


Elevation

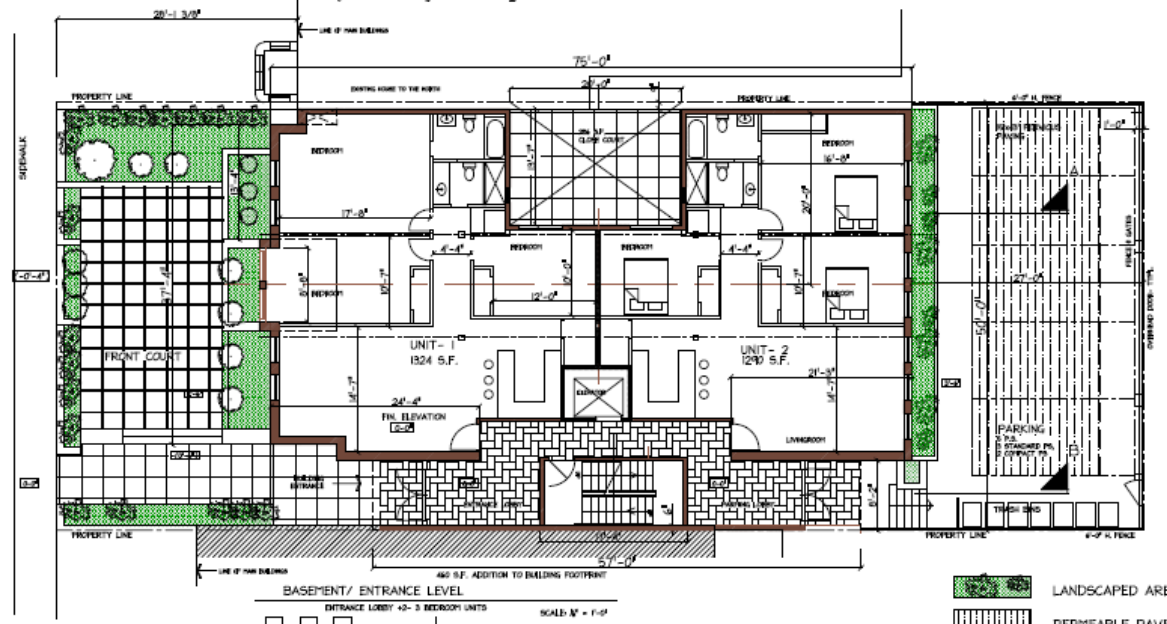




FIRST LEVEL - PROPOSED
2-3 BEDROOM UNITS SCALE: 1/4" = 1'-0"

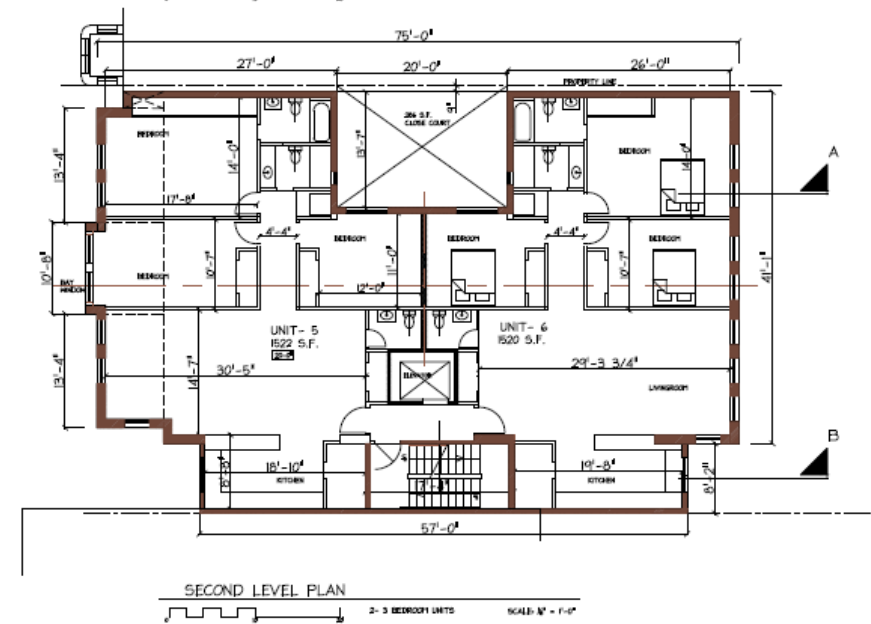


THIRD LEVEL PLAN
4 BEDROOM UNIT SCALE: 1/4" = 1'-0"



BASEMENT/ ENTRANCE LEVEL
ENTRANCE LOBBY +2-3 BEDROOM UNITS SCALE: 1/4" = 1'-0"

LANDSCAPED AREA
PERMEABLE PAVEMENT



SECOND LEVEL PLAN
2-3 BEDROOM UNITS SCALE: 1/4" = 1'-0"

Areas of Relief

- **Special Exception U-320.3**- conversions from non-residential structures to multi-unit residential structures are permitted as a matter-of-right, subject to certain criteria in U-301.2; however, if a project does not meet one or more of the requirements, it is permitted to request special exception relief pursuant to U-320.3
 - The project does not meet two of the matter-of-right criteria, as it exceeds 35 ft. and is removing a spire (architectural element)
- **Special Exception E-5201**- relief requested because we are expanding a nonconforming court
- **Variance from B-315**- requirement that the front setback cannot be further forward or further back than the adjacent properties; the existing building is set further back than the adjacent properties, so the addition up will extend an existing nonconformity
- **Variance from E-303.1**- while the request for 40 ft. of height is permitted via special exception (U-320.3), the Applicant needs relief from the number of stories, as it is proposing 4 stories

Requirements of U-320.3

U § 320.3 which permits the conversion of a non-residential building to an apartment house via special exception for those projects not meeting one (1) or more of the matter of right criteria of U § 301.2, subject to the following provisions:

- a) No special exception relief shall be available from the requirements of Subtitle U § 301.2(a)**
- b) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular;**
 - 1. The light and air available to neighboring properties shall not be unduly affected**
 - 2. The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and**
 - 3. The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street or alley**

320.3(a): No special exception relief shall be available from the requirements of Subtitle U § 301.2(a)

- Subtitle U § 301.2(a) states: “The building or structure to be converted is in existence on the property at the time of filing an application for a building permit”
- The Applicant is not requesting special exception relief from the requirements of U § 301.2(a), as there is an existing building on the Subject Property
- The Applicant is requesting relief from 320.3(b)– which limits the height of a matter-of-right building to 35 ft.; and from 320.3(e) which prohibits the removal of architectural elements original to the building
- The Applicant is proposing a building height of 40 ft. and is proposing to removing the existing spire

320.2(b) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

- 1. The light and air available to neighboring properties shall not be unduly affected**
- 2. The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and**

- Even with the addition, the adjacent buildings will be taller than the proposed building and the addition will not impact the light and air available to those properties
- The proposed closed court on the north side of the building includes windows, but the directly adjacent building to the north does not have windows on its south wall
- The directly adjacent building to the south does not have windows on its north lot line

320.2(b) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

3. The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street or alley

- The current church is out of character, scale, or pattern with the large townhomes and apartment buildings on this block of Holmead Place
- As demonstrated by the photographs, the current Building is significantly lower in height
- The proposed Project is driven by design and space planning, and the aim is to match the character of the adjacent properties, while providing the number of residential units permitted by the Zoning Regulations (7)
- While the proposed Building will still be lower in height than the adjacent buildings, the proposal includes a parapet wall that will give the appearance of matching height from street level

Requirements of E-5201.3

- 5201.3(a): *The light and air available to neighboring properties shall not be unduly affected;*
- 5201.3(b): *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*
- 5201.3(c): *The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage;*
- Same requirements as U-320.3(b)

Requirements of D-5201.3

5201.3(d): In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways

5201.3 (e): The Board of Zoning adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%)

- The applicant has provided plans, photographs, and maps to demonstrate the relationship of the accessory structure to adjacent buildings and views from public ways
- Lot occupancy is limited to 52%-- below the permitted lot occupancy for the RF-1 Zone (60%)

D § 5201.4 - 5201.6

- *Section 5201.4 “The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.”*
- The Applicant will comply with Board directives for protection of adjacent and nearby properties.
- *Section 5201.5 “This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.”*
- The Applicant is not requesting to introduce or expand a nonconforming use.
- *Section 5201.5 “This section may not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.”*
- The Applicant is not requesting to introduce or expand nonconforming height or number of stories.

Requested Variances

Variance Relief- Front Setback

- **Subtitle B § 315.1(c): “A proposed building façade or structure facing a street lot line shall... (c) In the case of an interior-lot attached or semi-detached building, not be further forward or further back than the building façade of one (1) of the immediately adjoining buildings.”**
- **Unique condition:** The existing and proposed interior-lot Building is approximately (2 ft.) further back than the adjacent building facade at 3425 Holmead Place, NW and seven feet (7 ft.) further back than the adjacent building façade at 3417 Holmead Place, NW
- **Practical Difficulty:** Were the Zoning Regulations strictly applied, the Applicant would face a practical difficulty because it would have to shift the front wall of the building, which would be a significant cost to the project and disruptive to the neighborhood in general

Variance Relief -Number of Stories: (1) Exceptional Condition

- A vacant purpose-built church building in the middle of a row house/apartment street
- Elevated first floor; elevated about 5 feet above the first floors of both adjacent structures
- First floor cannot, per Zoning Regulations, be moved unless the building is razed
- Even if the regulations allowed moving it, would be a substantial additional construction cost to do so
- Adjacent structures *exceed* 40 ft. in height

Existing Conditions



Area Variance Test: (2) Practical Difficulty

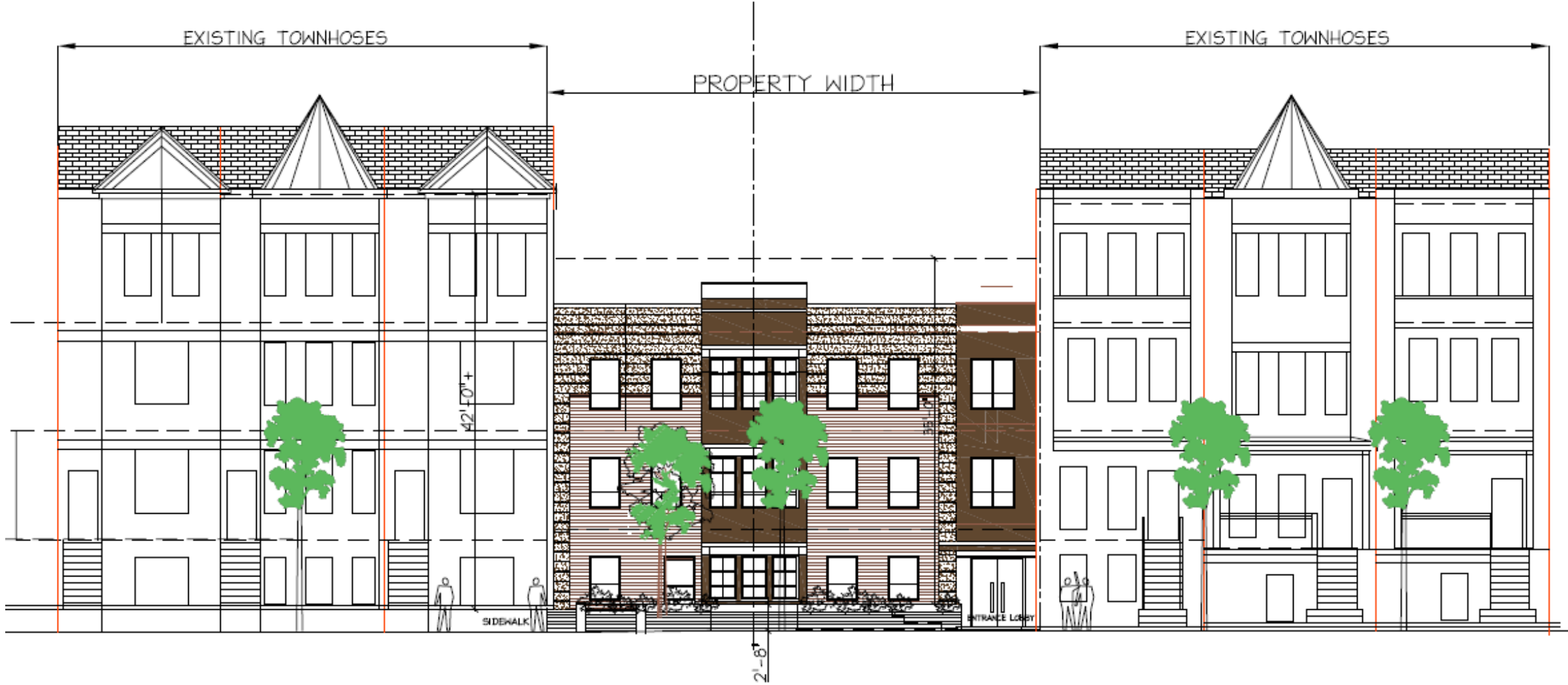
- The loss of this additional story creates a practical difficulty for the Applicant in a number of ways:
 - (1) the Applicant would be limited in either the number of units or the size of the units, creating feasibility issues for the project;
 - (2) the Applicant would not be able to achieve its matter-of-right height or even special exception height (in this case), leading to design issues unless it razes the building and loses three units
 - (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

Area Variance Test:

(2) Practical Difficulty- Feasibility Issues

- If limited to a three-story building, Applicant would be forced to either eliminate proposed units to maintain family-sized units or to provide seven smaller units
- 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

Matter of Right- No 4th Story or Cellar



Area Variance Test: (2) Practical Difficulty- Design Issues

- 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
- Existing non-residential structure requires significant interior and exterior renovations in order to fit the existing residential character of the neighborhood
- 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
- Adjacent buildings are all taller than the existing and proposed Building, because the lowest levels of the adjacent buildings do not count as stories
- This discontinuity in design 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– and OP has recommended approval of this design

Area Variance Test: (2) Practical Difficulty- 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
- 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
- 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
- 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
- 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

Area Variance Test:

(3) Relief Can be Granted without Substantial Detriment to the Public Good and without Impairing the Intent, Purpose, and Integrity of the Zone Plan.

- 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 as 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

Response to OP

- In its report, OP states “The combination of factors provided by the applicant rely on the context of the block, which is not relevant to this part of the variance test, as well as financial impacts, which OP does not generally consider an exceptional situation.”
- Regarding the “context” —designing a building that is so out of character with the existing neighborhood is a practical difficulty
- The financial impacts are related to the practical difficulty, not the exceptional situation
- In numerous cases, the Court of Appeals has held that economic use of a property may properly be considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in area variance cases (*See Oakland Condominium v. DC Board of Zoning Adjustment*, 22 A.3d 748 (2011); *Tyler v. DC Board of Zoning Adjustment*, 606 A.2d, 1362 (1992); *Gilmartin v. DC Board of Zoning Adjustment*, 579 A.2d 1164 (1990))
- Further, the Court has held that “at some point, economic harm becomes sufficient, at least when coupled with a significant limitation on the utility of the structure.” *Oakland Condominium v. DC Board of Zoning Adjustment*, 22 A.3d 748 (2011).