

**DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**

**Applicant’s Statement of 3423 Holmead Place LLC**

**3423 Holmead Place, NW; Square 2834, Lot 163.**

**I. INTRODUCTION**

This Statement is submitted on behalf of 3423 Holmead Place LLC (the “Applicant”), owner of the property located at 3423 Holmead Place, NW (Square 2834, Lot 163) (the “Subject Property”). The Subject Property is currently improved with a semi-detached, three (3) story building (the “Building”) originally built as a church and used continuously as a church until the recent purchase of the Subject Property by the Applicant. The Applicant is proposing to construct an addition to the Building (the “Addition”) and convert the Building to a seven (7) unit residential building (the “Project”). The Project requires the following relief:

1. Relief Pursuant to Subtitle U § 320.3—Special Exception for the Conversion of a Non-Residential Building not meeting the Matter of Right criteria of U § 301.2

A conversion from a non-residential building to an apartment house is permitted as a matter-of-right in the RF-1 Zone, subject to certain criteria enumerated in U § 301.2. Subtitle U § 320.3 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. The Project does not meet two of the matter of right criteria: U § 301.2(b) which requires that the addition be limited to thirty-five feet (35 ft.) in height (40 ft. proposed); and U § 301.2(e) which prohibits the removal of architectural elements original to the structure, such as a tower (existing steeple to be removed). Accordingly, the Applicant is requesting special exception relief for the conversion pursuant to U § 320.3.

2. Relief Pursuant to Subtitle E § 5201—Special Exception relief from the Front Setback Requirements of B § 315.1(c); Minimum Court Requirements of E § 203.1; and the Prohibition Against Extending a Non-Conforming Aspect of a Structure of C § 202.2.

Front Setback and Nonconforming Structure

The specific criteria governing front setbacks in the RF-1 Zone is found in E § 305.1: “For residential dwellings in the RF-1 zone, a front setback shall be provided that is within the range of existing front setbacks of all structures on the same side of the street in the block where the building is proposed.” The Applicant is not proposing to change the existing setback of twenty-five feet (25 ft.) and, as demonstrated on page A-1 of the plans, the existing setback is within the range of existing front setbacks of all structures on the same side of the block as is required by E § 305.1.

However, Subtitle B § 315.1(c) provides: “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.” As 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, the Applicant is asking for relief pursuant to E § 5201 which permits relief for “yards” and for “limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.”

Court Relief and Nonconforming Structure

Pursuant to E § 203.1, the minimum width for an open court in the RF-1 Zone is two-point five inches (2.5 in.) per foot (1 ft.) of height; or at least six feet (6 ft.). The existing Building has an existing open court on its northwest corner. The proposed Addition will extend this nonconforming court. The Addition will also create two new courts on the southwest and southeast corners of the Building. As the Building will be forty feet (40 ft.) in height, the minimum open court width is eight-point-three feet (8.3 ft.). The open court on the southwest corner is eight feet and eight inches (8 ft. 8 in.) and will be a conforming court. The open court on the southeast corner is just shy of the requirement, measuring eight feet and two inches (8 ft. 2 in.). Accordingly, the Applicant is requesting relief pursuant to E § 5201 which permits relief for “courts” and for “limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.”

3. Variance Relief from the Limit on the Number of Stories of E § 303.1

Subtitle E § 303.1 provides that in the RF-1 Zone, buildings shall be limited to three (3) stories. The Zoning Regulations define a basement as “that portion of a story partly below grade, the ceiling of which is four feet (4 ft.) or more above the adjacent finished grade.” Whereas a cellar is less than four feet (4 ft.) above the adjacent finished grade.<sup>1</sup> For the purpose of determining the maximum number of permitted stories, the term "story" does not include cellars. The existing Building has two stories, plus a lower level that is more than four feet (4 ft.) above the adjacent finished grade, for a total of three (3) stories. The Applicant is proposing to construct a fourth (4th) story. Accordingly, the Applicant is requesting variance relief from the limitation on the number of stories of E § 303.1.

**II. BACKGROUND**

A. Description of the Subject Property and Surrounding Area

The Subject Property, 3423 Holmead Place, NW, is located in the RF-1 Zone. The Subject Property is currently improved with a three (3) story, semi-detached Building that was built as a church and most recently used as the home of the Church of Jesus Christ of Latter-Day Saints. The lot measures 6,350 square feet in land area and fifty feet (50 ft.) in width.

The Subject Property is located in a neighborhood consisting of one-family dwellings, flats, and relatively large multi-family residential buildings. The buildings directly adjacent to the Subject Building, north and south of the Subject Property, are three-story multi-unit residential buildings that exceed the height of the existing and proposed Building. Abutting the Subject Property to the east and west are a public alley and Holmead Place, respectively.

B. Proposed Project

The Applicant is proposing to convert the existing church building into a residential building with seven (7) residential units. As part of the conversion, the Applicant is proposing to

---

<sup>1</sup> The Zoning Commission recently voted to change the definition of whether a lowest level is a basement or a cellar. The rule change did not impact the categorization of the Subject Property's lowest level, but the Applicant would like to note the upcoming rule change for the record. The new definition of a basement is “that portion of a story partly below grade where the finished floor of the ground floor is five feet (5 ft.) or more above the adjacent natural or finished grade, whichever is lower in elevation.”

construct a fourth (4th) story Addition and infill the existing eight (8 ft.) side yard on the Subject Property's south lot line, thus creating an attached building. The fourth (4th) story Addition will be set back eight feet (8 ft.) from the front façade of the Building. The Addition will necessitate the removal of an existing church steeple.<sup>2</sup> The Applicant is also proposing to remove the existing stairs and awning at the front of the Building. The Applicant is not proposing to construct an addition to the rear of the Building and will maintain the existing twenty-seven-foot (27 ft.) rear yard setback. The lot occupancy of the Project will be limited to fifty-two percent (52%).

The Applicant is proposing three (3) full parking spaces and two (2) compact spaces accessed through a sixteen-foot (16 ft.) public alley at the rear of the Subject Property. The height is only being increased slightly, to forty feet (40 ft.), from the existing height of thirty-three feet and ten inches (33 ft.10 in.). As the adjacent buildings are taller than the proposed Building, the Applicant is proposing a parapet wall to maintain the appearance of continuity.

The height relief is prompted by the desire to design the Building for greater compatibility with the adjacent buildings, but is also caused in part by the location of floor levels currently existing in the Building.

### **III. THE APPLICATION SATISFIES SPECIAL EXCEPTION REQUIREMENTS OF SUBTITLE U § 320.3.**

#### **A. Overview.**

Pursuant to Subtitle X § 901.2 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under Subtitles U § 320.3 and E § 5201 of the Zoning Regulations.

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant

---

<sup>2</sup> The Zoning Administrator has informed Applicant's counsel that the steeple is considered a protected architectural element.

zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

B. Requirements of Subtitle X § 901.2.

The granting of a special exception in this case “will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps” and “will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps ...” (11 DCMR Subtitle X § 901.2).

Given the nature of the Addition, the Building's mass and height will be in harmony with the purpose and intent of the Zoning Regulations and Zoning Maps. The requested areas of relief are driven in part by design concerns, as the adjacent properties are significantly taller than the Building. Although this is an RF Zone, this area is characterized by larger, multi-unit apartment buildings. Accordingly, the proposed Addition will maintain this character and provide for the adaptive reuse of an old church building that is currently out of character with the area.

C. Requirements of Subtitle U § 320.3.

A conversion from a non-residential building to an apartment house is permitted as a matter of right in the RF-1 Zone, subject to certain criteria enumerated in U § 301.2. The Project does not meet the requirements of U § 301.2(b) which requires that the addition be limited to thirty-five feet (35 ft.) in height (38 ft. proposed) and U § 301.2(e) which prohibits the removal of architectural elements original to the structure, such as a tower (existing steeple to be removed).

Accordingly, the Applicant is requesting relief pursuant to 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);**

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"; accordingly, 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.

**(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;**

The light and air available to neighboring properties shall not be unduly affected by the Addition, as the proposed Building is lower in height than the adjacent buildings.

**(2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and**

The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. The closed court 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.

**(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 conversion and associated Addition, as viewed the street, alley, and other public way, will not visually substantially intrude upon the character, scale, and pattern of houses along Holmead Place or the 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 the aim is to match the character of the adjacent properties. 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.

**(c) In demonstrating compliance with Subtitle U § 320.3(b) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways; and**

The Applicant has provided photos, elevations, and a map to demonstrate the relationship of the conversion and associated Addition to adjacent buildings and views from public ways.

**(d) 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 or nearby properties, or to maintain the general character of a block.**

The Applicant will comply with special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.

**IV. THE APPLICATION SATISFIES SPECIAL EXCEPTION REQUIREMENTS OF SUBTITLE E § 5201.**

As described in more detail above, the existing and proposed front setback is two feet (2 ft.) further forward 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. Accordingly, the Applicant must request relief from the front setback requirements, the minimum open court requirements, and from the prohibition against enlarging existing nonconforming structures. The proposal in this application satisfies the requirements of E § 5201, as follows:

**Section 5201.3 “An Application for special exception under this section shall demonstrate that the addition or accessory structure shall not have a substantially adverse affect on the use of enjoyment of any abutting or adjacent dwelling or property, in particular:**

**(a) The light and air available to neighboring properties shall not be unduly affected;**

As discussed above, the light and air available to the neighboring properties will not be unduly affected, as the proposed Building is lower in height than the adjacent buildings.

**(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;**

The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. Neither of the abutting properties have windows facing the Subject Property. The Applicant is not proposing an addition to the front or rear of the Building, only infilling the side yard.

**(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; and**

The conversion and associated Addition, as viewed the street, alley, and other public way, shall not visually substantially intrude upon the character, scale, and pattern of houses along Holmead Place or the alley. The current church is out of character with the larger 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 the aim is to match the character of the adjacent properties. 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.

**(e) 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; and**



The Applicant has submitted graphical representations including plans, photographs, elevations and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways.

**(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 proposed building will have a lot occupancy of fifty-two percent (52%) and is well below the seventy percent (70%) lot occupancy requirement for special exception relief in the RF-1 zone district.

**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 5201.6 “This section may not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.”**

While the Applicant is requesting relief from the number of stories, it is not using this section to do so; relief for this section is required because of an existing nonconforming front setback.

**V. THE APPLICATION SATISFIES THE STANDARD FOR VARIANCE RELIEF.**

The burden of proof for an area variance is well established. The Board of Zoning Adjustment may grant an area variance if it finds that “(1) there is an extraordinary or exceptional condition affecting the property; (2) practical difficulties will occur if the zoning

regulations are strictly enforced; and (3) the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan.” *Dupont Circle Citizens Ass'n v. D.C. Bd. of Zoning Adjustment*, No. 16-AA-932, 2018 WL 1748313, at \*2 (D.C. Apr. 12, 2018); *Ait-Ghezala v. District of Columbia Bd. of Zoning Adjustment*, 148 A.3d 1211, 1216 (D.C. 2016) (quoting *Washington Canoe Club v. District of Columbia Zoning Comm'n*, 889 A.2d 995, 1000 (D.C. 2005)) (internal quotation marks omitted). As set forth below, the Applicant meets the three-part test for the requested variance for the fourth (4th) story.

A. Extraordinary or Exceptional Condition affecting the Subject Property which will Lead to a Practical Difficulty if the Zoning Regulations are Strictly Enforced.

To prove an extraordinary or exceptional condition, or uniqueness, the Applicant must show that the property has a peculiar physical aspect or other extraordinary situation or condition. *Monaco v. D.C. Board of Zoning Adjustment*, 407 A.25 1091, 1096 (D.C. 1979). Moreover, the unique or exceptional situation or condition may arise from a confluence of factors which affect a single property. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579A.2<sup>nd</sup> 1164, 1168 (D.C. 1990). The second prong of the variance test is whether a strict application of the Zoning Regulations would result in a practical difficulty. It is well settled that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’... Increased expense and inconvenience to an applicant for a variance are among the factors for the BZA’s consideration.” *Gilmartin*, 579 A.2d at 1711. Other factors to be considered by the BZA include: “the severity of the variance(s) requested”; “the weight of the burden of strict compliance”; and “the effect the proposed variance(s) would have on the overall zone plan.” Thus, to demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome, not impossible.

In this case, the Subject Property is unique because it is the only non-residential building on this block and has an existing lower level that counts as a story. 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, but because the lowest levels of the adjacent buildings do not count as stories, each was permitted to achieve a greater height than the proposed Building.

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.). Further, the loss of a story would result in either a loss of residential units or in the elimination of bedrooms from the now family-sized residential units to make up for the lost space. Alternatively, the Applicant could lower the lowest level so that it would not count as a story; however, that creates other issues. The Applicant is currently proposing to keep the first two stories of the existing building, including the existing walls and slabs. Removing the slab disrupts the entire design. Moreover, lowering the story disturbs the entire internal configuration and existing floor plates and would be prohibitively expensive.

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

Relief can be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the Zone Plan. The purpose of the conversion requirements enumerated in U § 301.2 is to provide for the adaptive reuse of existing non-buildings in residential zones by permitting the conversion to residential use, provided that the project and addition fits with the existing character of the neighborhood. In this case, the proposed Project and Addition have been carefully designed to match the bulk, character, scale and pattern of the neighborhood. Even with the Addition, the height of the proposed Building will still be lower than the adjacent buildings.

**VI. CONCLUSION.**

For the reasons outlined in this Applicant's Statement, the Applicant respectfully requests the special exception request and variance relief as detailed above.

Respectfully Submitted,

Applicant's Statement  
3423 Holmead Place, NW

*Martin P Sullivan*

---

Martin P. Sullivan

Sullivan & Barros, LLP

Date: June 21, 2018