

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

**APPLICATION OF
ELEE AND JOSEPH WAKIM
SQUARE 2858, LOT 18
ANC 1B**

**BZA APPLICATION NO. 20116
HEARING: OCTOBER 3, 2019**

STATEMENT OF THE APPLICANT

**I.
NATURE OF THE APPLICATION**

This prehearing statement is submitted pursuant to Subtitle X §§ 901.2 and 1000.1 of the Zoning Regulations by Elee and Joseph Wakim (the "Applicant"), the owner of 2705 11th Street, NW (Lot 18 in Square 2858) (the "Subject Property"), in support of its application for variance relief from the 900 square foot requirement of Subtitle U § 320.2(d) and the minimum parking size requirement of Subtitle C § 712.3, and for special exception relief pursuant to Subtitle X § 901.2 and Subtitle U § 320.2, to permit the conversion of a residential building to a three-unit apartment building in the RF-1 zone at the Subject Property.

**II.
JURISDICTION OF THE BOARD**

The Board has jurisdiction to grant the special exception and variance relief requested herein pursuant to Subtitle X § 901.2 and 1000.1 of the Zoning Regulations.

**III.
WITNESSES**

1. Shane Dettman, Dir. of Planning Services, Holland & Knight LLP
(expert witness, zoning and land use, resume in case record at Exhibit 16)

IV.
BACKGROUND AND PROJECT DESCRIPTION

A. Description of the Subject Property

The Subject Property is located at 2705 11th Street, NW. The Subject Property is located at the southwest corner of Square 2858, which is bounded by Girard Street on the north; Fairmont Street on the south; Sherman Avenue on the east; and 11th Street on the west. As shown on the Surveyor's Plat at Exhibit 9¹, the Subject Property is relatively small, with a shallow depth of approximately 77.03 feet. Access to the rear of the Subject Property is provided via a 15-foot public alley. According to online records of the District of Columbia Office of Tax and Revenue, the Subject Property has a land area of only 1,465 square feet.

The Applicant acquired the Subject Property in March of 2019. As shown in the existing conditions photographs included in Exhibit 4, the Subject Property is currently improved with a three-story, brick structure that was built in approximately 1912, but has been vacant since at least 2016. The building has a height of approximately 34'-9" and a footprint of approximately 1,230 square feet, resulting in a lot occupancy of approximately 84%. The Subject Property has a rear yard measuring approximately 17'-3" in depth. According to the records of the District of Columbia, the most recent Certificate of Occupancy on file for the Subject Property was issued in February of 1988 for a flat with one dwelling on the first floor and a second dwelling taking up floors 2 and 3 (Exhibit 11). However, as describe below the existing building currently contains three separate dwelling units.

As shown in Exhibit 5, Sheets EX-101 and EX-102, and the photographs included in Exhibit 12, the existing building is currently configured as three separate dwelling units – one at

¹ Unless otherwise noted, all references to exhibits refer to exhibits previously submitted that are already within the case record.

the basement level, one on the first floor, and one that takes up the second and third floors – and appears to have been configured this way for quite some time. Each unit has independent access to the exterior either directly (basement unit) or through a common foyer (first and second level units), full bathrooms, and kitchens. In addition, as further proof that the existing building has functioned as a three-unit apartment house, each of the three existing units contains an electrical panel, alarm system, and doorbell. While the most recent Certificate of Occupancy on file indicates the Subject Property contains two units, there is no indication onsite that the basement-level unit was ever connected to the first-level unit by a connecting stair. To the contrary, while the basement-level unit is in dire need of a complete renovation, as are the other two units, it is clear (based on the presence of the full kitchen, bathroom, electrical panel, alarm panel, and doorbell) that the basement-level has been utilized as dwelling unit that is entirely separate from the units on the upper floors.

B. Surrounding Area

The Subject Property is located along a block of two- and three-story attached buildings. The surrounding area contains a mixture of single-family dwellings, flats, and 3- to 5-story apartment buildings. The area also contains a scattering of institutional and smaller neighborhood serving retail and service uses. The property immediately adjacent to the Subject Property was converted to a three-unit apartment building pursuant to BZA Order No. 18436.

The Subject Property is located in a walkable neighborhood that is well-served by public transportation. The entrance to the Columbia Height Metrorail Station is located approximately 0.4 miles away. The Subject Property is also served by several Metrobus routes, DC Circulator, and Capital Bikeshare. A cycle track running along 11th Street makes the Subject Property easily accessible by bicycle.

C. Zoning

As shown on the portion of the Zone Map at Exhibit 13, the Subject Property is zoned RF-1. The Residential Flat (RF) zones are residential zones that provide for areas developed primarily with row dwellings, but within which there have been limited conversions of dwellings or other buildings into more than two (2) dwelling units (11-E DCMR §100.1). Density in the RF zones is primarily controlled by minimum lot dimensions, height and number of stories, and lot occupancy. The maximum permitted height in the RF-1 zone is 35 feet and three (3) stories (with 40 feet permitted for new construction of three or more immediately adjoining residential row dwellings or flats) (11-E DCMR § 303). The maximum permitted lot occupancy in the RF-1 zone is 60%, with the permitted lot occupancy for the conversion of a building or structure to an apartment house being the greater of 60% or the lot occupancy as of the date of the conversion (11-E DCMR § 304). A minimum rear yard of 20 feet is required in the RF-1 zone (11-E DCMR § 306).

D. Project Description

As stated above, the Subject Property has been vacant since at least 2016. According to online records of the Office of Tax and Revenue, the Applicant purchased the Subject Property in March 2019 for \$974,835, and is proposing to fully rehabilitate the existing building while maintaining its current three-unit configuration. Upon completion of construction, the Applicant will reside in one of the dwelling units as their primary residence and rent the other two dwelling units.

Based on an inspection conducted at the time of purchase, the existing building has antiquated wiring and piping, including dangerously outdated junction boxes, and the entire property is in need of an overhaul to meet current D.C. Construction Codes. Based on estimates received by the Applicant, it will require approximately \$623,000 to renovate the Subject

Property into two dwelling units, and approximately \$725,000 to renovate the Subject Property into three dwelling units. Including soft costs such as design and permit fees, a reasonable construction contingency, and expenses such as taxes and interest the total amount to renovate the Subject Property could be approximately \$1.8 million for two units and \$1.9 million for three units. On a per unit basis, the proposed three unit plan is approximately \$220,661 less per unit to construct than the two unit plan. As thoroughly discussed below, considering the Applicant intends to make the Subject Property their primary residence, a two unit plan would be substantially burdensome for the Applicant. In contrast, the proposed three unit plan would allow the Applicant to more reasonably carry the debt on the Subject Property.

V.
VARIANCE RELIEF

The Applicant is seeking two variances pursuant to Subtitle X § 1000.1 of the Zoning Regulations for relief from the 900 square foot requirement of Subtitle U § 320.2(d) and the minimum parking size requirement of Subtitle C § 712.3. 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 three conditions exist:

- 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 Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); see also, *Capitol Hill Restoration Society, Inc. v. District of Columbia Board of*

Zoning Adjustment, 534 A.2d 939 (D.C. 1987). As discussed below, the Applicant meets the three prongs of the area variance test.

A. The Property Is Unusual Because of its Size, Shape or Topography and is Affected by an Exceptional Situation or Condition.

The phrase “exceptional situation or condition” may arise from a confluence of factors which affect a single property. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). In addition, the exceptional situation or condition can pertain not only to the land, but also to the existence and configuration of a building on the land. See *Clerics of St. Viator, Inc. v. D.C. Board of Zoning Adjustment*, 320 A.2nd 291, 294 (D.C. 1974). The D.C. Court of Appeals has held that there is no requirement that the uniqueness “inheres in the land at issue.” *Gilmartin*, 579 A.2d at 1168, citing *Capitol Hill Restoration Society v. D.C. Bd. of Zoning Adjustment*, 534 A.2d 939, 942 (D.C. 1987). To the contrary, a “difficulty which sets a property apart from its neighbors need not be physical but can stem from the zoning history of the case.” *Monaco v. D.C. Bd. of Zoning Adjustment*, 407 A.2d 1091, 1097 (D.C. 1979). For example, private restrictive covenants “may be considered in their own right as an extraordinary condition of a particular piece of property, since they effectively restrict design, height, and use.” *Monaco v. D.C. Bd. of Zoning Adjustment*, 407 A.2d 1091, 1099 (D.C. 1979)), and “historical factors, a relationship with Congress, and past actions of the BZA and Zoning Commission create an extraordinary or exceptional situation or condition so as to fulfill the statutory variance requirement.” *Monaco*, 407 A.2d at 1095-96. Ultimately, the term “extraordinary or exceptional condition” was “designed to serve as an additional source of authority enabling the Board to temper the strict application of the zoning regulations in appropriate cases.” *DeAzcarate v. D.C. Bd. of Zoning Adjustment*, 388 A.2d 1233, 1237 (1978).

In this case, the exceptional conditions that individually and collectively give rise to a practical difficulty for the Applicant derive from the Subject Property's relatively small size, the footprint of the existing structure relative to the size of the Subject Property, and the current configuration of the existing structure which has existed since well before the Applicant acquired the Subject Property. As shown on the plat included at Exhibit 9, the Subject property is relatively small, having a land area of only approximately 1,465 square feet. In addition, the Subject Property has a shallow depth of approximately 78.13 feet. Further, the Subject Property has an existing lot occupancy of approximately 84%, where only 60% is permitted as a matter of right. Based on observations of historic Baist Maps, the current lot occupancy is a result of an expansion of the existing structure, which was originally constructed circa-1912. Due to the prior expansion, the Subject Property currently only has a rear yard of 17.25 foot, where a rear yard of 20 foot is required. Finally, as noted above, the existing structure on the Subject Property is configured for three separate units that each meet the technical definition of a "dwelling unit," as defined under Subtitle B of the Zoning Regulations. While the most recent Certificate of Occupancy on file indicates the Subject Property contains two units, there is no indication onsite that the basement-level unit was ever connected to the first-level unit by a connecting stair. To the contrary, consistent with the Zoning Administrator's recent guidance on "Defining a Separate Dwelling Unit" (Exhibit 14), while all three units have been vacant since at least 2016 and are in dire need of a complete renovation, they all have independent access to the exterior either directly (basement unit) or through a common foyer (first and second level units), full bathrooms, and full kitchens. In addition, as further proof that the existing building has been used as a three-unit apartment house in the past, each of the existing units contains an electrical panel, alarm system, and doorbell.

B. Strict Application Would Result in a Practical Difficulty to the Owner

As discussed below, the presence of the exceptional conditions described above results in a practical difficulty to the owner should the Zoning Regulations be strictly applied. To meet the standard for practical difficulty, “[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case.” *Palmer v. D.C. Bd. of Zoning Adjustment*, 287 A. 2d 535, 542 (D.C. 1972). In area variances, such as those requested in this case, applicants are not required to show “undue hardship” but must satisfy only “the lower ‘practical difficulty’ standards.” *Tyler v. D.C. Bd. of Zoning Adjustment*, 606 A.2d 1362, 1365 (D.C. 1992), citing *Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990). Finally, 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’...” *Gilmartin*, 579 A.2d at 1171, citing *Barbour v. D.C. Bd. of Zoning Adjustment*, 358 A. 2d 326, 327 (D.C. 1976). See also, *Tyler v. D.C. Bd. of Zoning Adjustment*, 606 A.2d 1362, 1367 (D.C. 1992). Thus, to demonstrate practical difficulty, the Applicant must show that strict compliance with the regulations is burdensome, not impossible.

1. 900 Square Foot of Land Area Requirement (11-U DCMR § 320.2(d))

The Applicant is requesting a special exception to convert the existing residential building that has existed on the Subject Property prior to May 12, 1958, to a three-unit apartment house pursuant to the conditions of Subtitle U § 320.2(a)-(m). As discussed below, the Applicant overwhelmingly satisfies all applicable conditions with the exception of the requirement that 900 square feet of land area be provided per dwelling unit (Subtitle U § 320.2(d)). As described below, the strict application of this condition would result in

a practical difficulty to the Applicant as it would create a severe debt to income imbalance that would make it difficult for the Applicant to reside in one of the proposed units on the Subject Property.

As stated above, the Subject Property has been vacant since at least 2016. The Applicant purchased the Subject Property in March of 2019 for \$974,835, and is proposing to fully rehabilitate the existing building while maintaining its current three-unit configuration. Upon completion of construction, the Applicant will reside in one of the dwelling units as their primary residence and rent the other two dwelling units. Based on an inspection conducted at the time of purchase, the existing building has antiquated wiring and piping, including dangerously outdated junction boxes, and the entire property is in need of an overhaul to meet current D.C. Construction Codes.

As shown in the profit / loss analysis at Exhibit 15, it will require approximately \$623,000 to renovate the Subject Property with two dwelling units, and approximately \$725,000 to renovate the Subject Property with three dwelling units. Including soft costs such as design and permit fees, a reasonable construction contingency, and expenses such as taxes and interest, the total amount to renovate the Subject Property would be approximately \$1,705,135 for two units (\$852,567.50 per unit) and \$1,818,135 for three units (\$606,045 per unit). On a per unit basis, the proposed three unit plan is approximately \$246,000 less per unit to construct than the two unit plan. As explained below, with the Applicant making the Subject Property their primary residence, it would be substantially burdensome for the Applicant to carry the debt service on the Subject Property if required to renovate the existing structure with only two units. In contrast, the proposed three-unit

plan would allow the Applicant to more reasonably carry the debt service on the Subject Property.

As shown in Exhibit 15, table entitled “Annual Post-renovation Carrying Costs (est. March 9th, 2020),” under a two-unit scenario where the Applicant resides in one unit and has one income-generating unit the Applicant would be required to pay approximately \$60,606.46 toward covering the annual debt service on the Subject Property. This amount, which equates to approximately \$5,050.54 per month, effectively represents the Applicant’s monthly “rent” for residing in one of the dwelling units on the Subject Property. This amount is significantly more than the average monthly rent for comparable units in the area. In contrast, under a three-unit scenario the Applicant would be required to pay approximately \$35,582.31 toward covering the annual debt service on the Subject Property. This equates to a monthly “rent” of approximately \$2,965.19 for the Applicant, which is much more in line with the average comparable monthly rent in the area. The substantial difference in cost to the Applicant is a result of the extremely poor condition of the Subject Property and the substantially higher costs associated with converting the existing building to a two-unit building rather than maintain the existing three-unit configuration.

2. Minimum Parking Size (11-C DCMR § 712.3)

Under Subtitle C § 712.3, at least 50% of required parking spaces must meet the minimum full-sized parking space standards of Subtitle C § 712.5. All other spaces must meet the minimum compact parking space standards of Subtitle C § 712.6. Pursuant to Subtitle C § 701.5, the minimum parking requirement for a multiple dwelling unit use in an RF zone is one space for each two dwelling units. As such, the minimum parking

requirement for the three-unit apartment proposed by the Applicant is two spaces (rounded up from 1.5 spaces per the Rules of Calculation under Subtitle C § 709.3). As shown on the site plan included at Exhibit 9, while the Applicant will provide the two parking spaces required under the Zoning Regulations, due to the shallow depth and lot occupancy of the Subject Property it is unable to satisfy the requirement that 50% of required spaces be full-sized. Rather, both parking spaces provided will be compact spaces measuring 8 feet wide by 16 feet deep.

The strict application of the Zoning Regulations would result in a practical difficulty to the Applicant in that it would require demolition of the rear portion of the existing structure in order to comply with the parking size requirement under Subtitle C § 712.3. Having to demolish a portion of the existing structure would undoubtedly be necessarily burdensome for the Applicant.

C. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose, and Integrity of the Zone Plan

The requested variance relief can be granted without substantial detriment to the public good and without substantial impairment to the intent, purpose or integrity of the Zone Plan. The variance from the 900 square foot land area requirement under Subtitle U § 320.2(d) can be granted without causing substantial detriment to the public good based on the clear empirical evidence that the Subject Property has been used in the past as a three-unit apartment building. As such, there would be no perceptible increase in density on the Subject Property or in the surrounding area. The Applicant is not proposing to expand the existing building, but rather is simply proposing to renovate what is already there in order to meet current D.C. Construction Codes. Furthermore, the Subject Property is in an area that is already somewhat of a “denser” RF-1 neighborhood that has great transit, walkability, and several neighborhood serving amenities. Indeed, rather than reduce

the number of dwelling units, it would seem that renovating a property that is already configured for three units and has such favorable access to transit and neighborhood amenities is more consistent with the Mayor's recently announced housing initiative to create 36,000 new housing units by 2025. Finally, the variance from the parking size requirement under Subtitle C § 712.3 will not result in substantial detriment to the public good since the Applicant will still be providing the minimum number of parking spaces required for the proposed three-unit apartment building. In fact, considering no parking is currently provided onsite and the Subject Property has been used as a three-unit apartment building in the past, the two parking spaces that will be provided are a positive contribution to neighborhood parking.

VI. **SPECIAL EXCEPTION RELIEF**

The Applicant is also requesting special exception relief pursuant to Subtitle X § 901.2 and Subtitle U § 320.2, to permit the conversion of a residential building to a three-unit apartment building in the RF-1 zone at the Subject Property. Pursuant to D.C. Code §6-641.07(g)(2) and Subtitle X § 901.2, the Board is authorized to grant a special exception where it finds the special exception will be in harmony with the general purpose and intent of the Zone Plan and will not tend to adversely affect the use of neighboring property, subject in each case to the special conditions specified. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion... is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District*

of *Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

As demonstrated below, the Applicant's proposal satisfies all applicable criteria and thus the burden of proof for the request special exception is met.

A. 11-U DCMR § 320.2

Conversion of an existing residential building existing on the lot prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

1. *The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);*

The height of the existing building on the Subject Property is approximately 34'-9". No additions are proposed to the existing building.

2. *The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6;*

The Applicant is only proposing three dwelling units.

3. *There must be an existing residential building on the property at the time of filing an application for a building permit;*

There is an existing residential building on the Subject Property.

4. *There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;*

As detailed in Section V of this statement, the Applicant is requesting a variance from this requirement.

5. *An addition shall not extend farther than ten feet (10 ft.) past the farthest rear wall of any adjoining principal residential building on any adjacent property;*

No additions are proposed to the existing building on the Subject Property.

6. *Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;*

No additions are proposed to the existing building on the Subject Property.

7. *Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. [Remainder of this provision omitted as this provision is not applicable to this application].*

No additions are proposed to the existing building on the Subject Property.

8. *A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;*

No additions or modifications are proposed to the roof top architectural elements of the existing building on the Subject Property.

9. *Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property [remainder of this provision omitted as this provision is not applicable to this application]*

No additions are proposed to the existing building on the Subject Property.

10. *In demonstrating compliance with Subtitle U § 320.2(i) 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;*

Not applicable.

11. *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;*

No special treatment is necessary because no additions are proposed to the existing building on the Subject Property.

12. *The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and*

The Applicant is not requesting the Board to modify or waive any of the requirements specified in Subtitle U §§ 320.2(e) – (h).

13. *An apartment house in an RF-1, RF-2 or RF-3 zone, converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11 shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and this section.*

Not applicable.

B. 11-X DCMR § 901.2

The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

1. *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The Applicant's proposal will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The general purpose and intent of the Zoning Regulations is to promote public health, safety, morals, convenience, order, prosperity, and general welfare in order to provided adequate light and air; prevent undue concentration of population and the overcrowding of land; and provide distribution of population, business and industry, and use of land that will tend to create conditions favorable to transportation,

protection of property, civic activity, and recreational, educational, and cultural opportunities; and that will tend to further economy and efficiency in the supply of public services.

The proposal to convert the existing residential building to a three-unit apartment on the Subject Property will promote public health, safety, convenience, and the general welfare by providing for the full rehabilitation and occupancy of an existing structure that has been vacant since at least 2016. The proposal will not have any impact on light and air since the Applicant is not proposing to expand the existing building. As discussed above, the existing building has been used as a three-unit apartment building in the past. As such, the proposal will not result in undue concentration of population or overcrowding of land. In fact, there is a three-unit apartment building on a similarly sized lot immediately next door to the Subject Property, which the Board approved in 2013 (BZA Application No. 18436). Overall, compared to the existing condition of the Subject Property the Applicant's proposal will create favorable conditions and, as envisioned in the Mayor's recently announced housing initiative, is the type of development that will help increase the production of housing in the District's high opportunity areas.

2. *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*

The requested relief will not adversely affect the use of neighboring properties in accordance with the Zoning Regulations and Zoning Maps. As noted above, the Subject Property is located in an area that is already somewhat of a "denser" RF-1 neighborhood that contains a mixture of single-family dwellings, flats, as well as 3- to 5-story apartment buildings. The area also contains a scattering of institutional and smaller neighborhood serving retail and service uses, and has great transit and walkability. The Applicant is not

proposing to expand the existing building on the Subject Property and will provide the required number of parking spaces onsite. As such, there will be no impact to light, air, or parking. Finally, considering the Subject Property has been used as a three-unit apartment building in the past there will be no impact to neighboring properties as to density or intensity of use.

3. *Will meet such special conditions as may be specified in this title.*

As discussed above, the Applicant satisfies the conditions of Subtitle U § 320.2 with the exception of the 900-square foot requirement in Subtitle U § 320.2(d), from which the Applicant has requested variance relief.

VII. **COMMUNITY COORDINATION**

As required under Subtitle Y § 300.8(l), the Applicant apprised Advisory Neighborhood Commission (“ANC”) 1B of the application prior to submitting the request to the Board, and has continued to coordinate with the ANC since.

Prior to submitting to the Board, the Applicant informed Chairman James Turner, SMD 1B09 of the application by email on April 9, 2019 and April 14, 2019. On April 15, 2019, the Applicant discussed the project and conducted a site visit with Mr. Patrick Nelson, Chairman, ANC 1B Zoning, Preservation, & Development Committee.

Following submission of the application, on August 8, 2019, the Applicant met with Commissioner Turner and Mr. Nelson at the Subject Property to assess the condition of the Subject Property and further discuss the application. On August 19, 2019, the ANC 1B Zoning, Preservation, & Development Committee voted to recommendation approval of the application to the full ANC. The Applicant is scheduled to present the application to the full ANC at its meeting on September 12, 2019.

In addition to coordinating with the ANC, the Applicant also sent letters to the owners of the properties within 200 feet of the Subject Property. These letters were in addition to the standard notification letters sent by the Office of Zoning. The Applicant also personally met with the residents of the adjacent property to the south, a three unit apartment building at 2703 11th Street, NW, to discuss the project. The owners of all three units within the neighboring building have submitted letters in support of the application (Exhibits 34, 35, and 37). In addition, a letter in support has been submitted by the representatives of the homeowners association for the neighboring building at 2703 11th Street (Exhibit 33). The record also contains three additional letters in support submitted by nearby residents (Exhibits 32, 39, and 40).

With respect to the adjacent property to the north (2707 11th Street, NW), the Applicant sent two letters to the owner of the property who does not reside onsite. The Applicant also placed letters in the mailbox and visited the adjacent property on multiple occasions in hopes to discuss the project with the current tenants. To date, the Applicant has not received any response from the property owner, and has not been able to reach anyone residing onsite. In fact, it is not clear to the Applicant whether the adjacent property to the north is even occupied at this time. The Applicant will continue its efforts to reach the owner and/or occupants of the adjacent property and will provide the Board with an update on these efforts at the public hearing.

VIII. **CONCLUSION**

Based on the foregoing, the Applicant has demonstrated that it successfully meets the burden of proof for the requested variance and special exception relief to convert the existing residential building on the Subject Property to a three-unit apartment building. As such, the Applicant respectfully requests that the Board grant the subject application.