

**EMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Maxine Brown-Roberts, Development Review Specialist  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** March 10, 2023

**SUBJECT:** BZA Case 20844 - To permit Office Use at 401-415 Michigan Avenue, NE in the RA-1 Zone

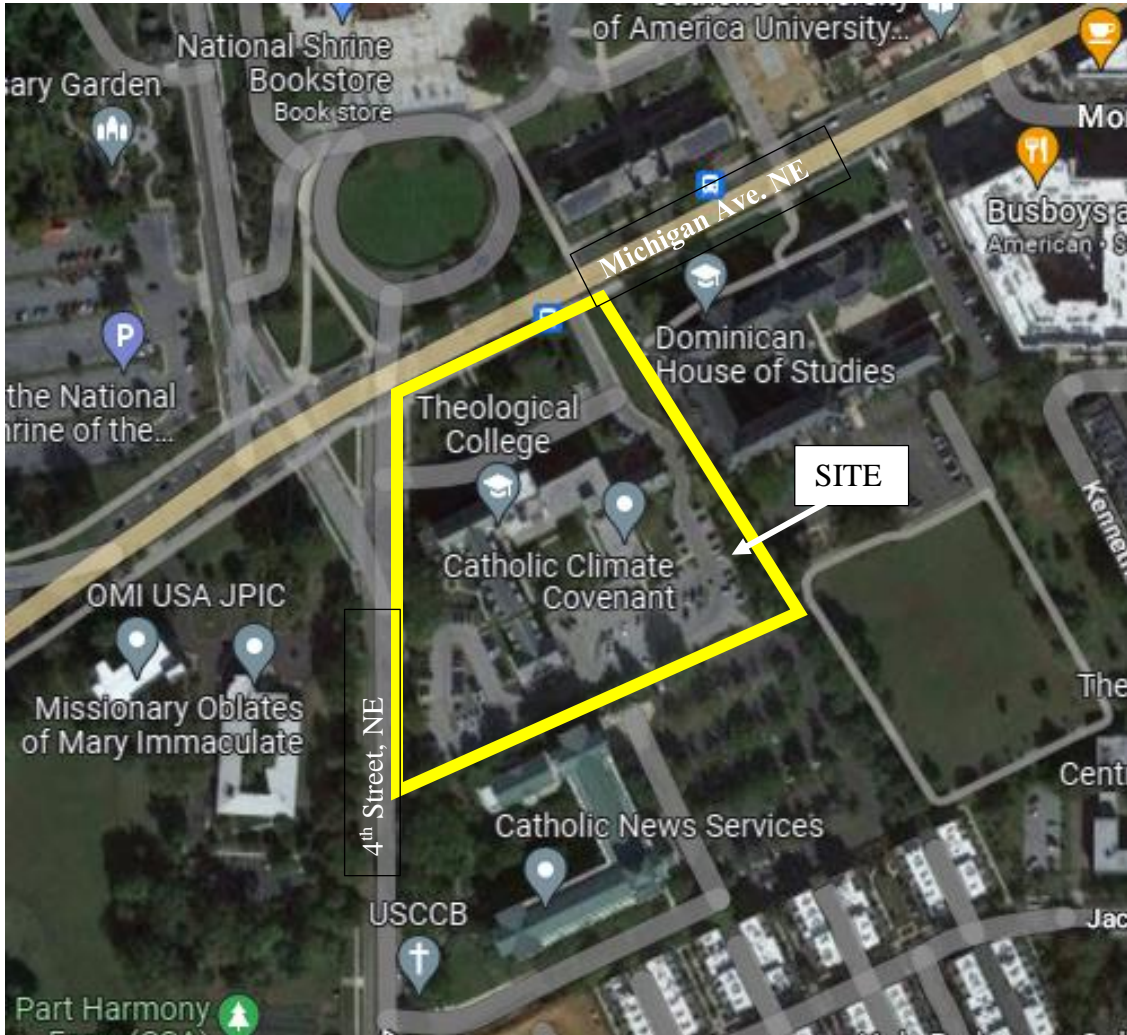
**I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following use variance to allow office use in a building in the RA-1 zone:

Subtitle U § 401.1, Matter of Right Uses (proposed office use) pursuant to Subtitle X § 1000.

**II. LOCATION AND SITE DESCRIPTION**

Address	401-415 Michigan Avenue, NE.
Applicant	Theological College, Inc. represented by Gordon Feinblatt LLC
Legal Description	Lot 130, PAR 133
Ward, ANC	Ward 5, ANC 5E
Zone	RA-1
Lot Characteristics	Nearly flat, irregularly shaped lot with an area of 21,474 square feet.
Existing Development	The property is developed with a four-story plus basement building that is currently being used as a seminary, dormitory for the seminarians, office accessory to the seminary, and offices for other non-profit organizations. The building has surface parking on the west side of the building along t4th Street, a few spaces in front of the building along Michigan Avenue and a large lot to the rear of the building accessed from Michigan Avenue.
Adjacent Properties	To the north is Catholic University of America and the Basilica of the National Shrine of the Immaculate Conception; to the east is the Dominican House of Studies, an educational use; to the south are offices for Catholic News Services and the National Religious Retirement Offices; and to the west is the Oblates College, and educational institution. Missionary
Surrounding Neighborhood Character	The area surrounding the site is predominantly educational interspersed with office, retail and residential uses.
Proposed Development	Office use for non-profit organizations in the 415 Michigan Avenue portion of the building (Exhibit 25).



### III. OFFICE OF PLANNING ANALYSIS

#### Subtitle X §1000 Use Variance Relief from Subtitle U § 401.1, Matter of Right Uses

##### Extraordinary or Exceptional Situation

The building was constructed in 1917 and has a history of being used for non-residential uses. The primary use of the building is a seminary which is an educational institution to train and educate priests, as well as dormitory housing for the seminarians (matter-of-right educational use). The building also houses offices, which are accessory to the seminary and leased office space to non-profit organizations.

The Applicant states that they are unable to expand the matter-of-right seminary uses into the remaining portions of the building as the seminary population is not increasing sufficiently to occupy the entire building. In addition, the area not being used by the seminary is built and configured for office use.

Although the building has two addresses, it functions as a single building. The Applicant asserts that it was their understanding that the current Certificate of Occupancy (C of O)(Exhibit 5) which permits seminary and office use in the basement and four floors covered the entire building and not just the 401 Michigan Avenue portion.

### **Resulting in an Undue Hardship to the Owner**

The main matter of right RA-1 use is residential, including one family, flat, and (by special exception) multi-family. Some other matter-of-right uses include hospitals, clinics, daytime care or recreational buildings like a park, playground, or athletic field which are unrealistic or cannot be accommodated in the building. These uses could not be considered for the building as it would be difficult to accommodate and financially burdensome as the building would need to be significantly modified, reconfigured and reconstructed in order to be suitable for those uses. Some of the uses, including residential, may not be consistent with the use of the remainder of the building. In particular, conversion of the office space to residential would be inconsistent with the use of the remainder of the building. The building is generally surrounded by other institutional uses, so is not proximate to other residential uses.

The Applicant is faced with an undue hardship in that the seminary cannot expand into the entire building as there is not the need, and without feasibly being able to use the space for office or convert it to residential or some other permitted use, the space would remain vacant. If the space is to remain vacant, it would be a burden and hardship to the Applicant, a religious school and a non-profit organization, as they would have to maintain the space with no revenue.

### **No Substantial Detriment to the Public Good**

Allowing office use in the building would not be a substantial detriment to the public good. There are no residential uses directly adjacent to property and the adjacent property owners have written letters of support for the proposal. The building is set back from both Michigan Avenue and 4<sup>th</sup> Street and adequate parking is available on site, so the proposal would not result on-street parking impacts. The seminary uses would continue to be the predominant use in the building as of the 139,188 square foot building only 28,000 square feet or 20 percent would be dedicated to the requested office use and would not generate any noise or other negative impacts on the adjacent uses. In fact, the office uses would be similar and compatible to the adjacent uses. It is therefore not envisioned that the office use would have a negative impact on the surrounding area or be a detriment to the public good.

### **No Substantial Impairment to the Zoning Regulations**

The owner of the property is a religious and nonprofit organization and the Regulations allow for special consideration be given to allow them to fulfil their mission. Furthermore, the integrity of the Zoning Regulations would not be eroded if the proposed nonconforming use was allowed on this property, as granting the requested use variance to allow the continued office uses of the space.

#### **IV. OTHER DISTRICT AGENCIES**

As of the writing of this report there are no comments from other District agencies in the record.

#### **V. ADVISORY NEIGHBORHOOD COMMISSION**

The property is within ANC-5E. At Exhibit 23 is a letter of support from the ANC.

#### **VI. COMMUNITY COMMENTS TO DATE**

Letters of support from adjacent property owners are at Exhibits 20, 21 and 22.