

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

**1730 R Street, NW
Square 155, Lot 821**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted on behalf of the District Department of General Services (hereinafter referred to as "DGS" or the "Applicant") in support of an application pursuant to Subtitle X § 901.2 and Subtitle C § 1610.2 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR") for special exception relief from the rear yard requirement for a public education building in the RA-8 zone district. The Applicant seeks to install an ADA-accessible elevator at the back of Ross Elementary School, located at premises 1730 R Street, NW (Square 155, Lot 821) (the "Property").

Attached hereto is a letter from the Applicant authorizing the filing and processing of this application. Pursuant to Subtitle Y § 1600.3, the Applicant is requesting waiver of the filing fee for this special exception request, as the Property is owned by an agency of the Government of the District of Columbia.

As detailed below, the Applicant is requesting expedited processing of this application pursuant to 11-Y DCMR § 400.7. The accelerated review of this application is "necessary and desirable" given the use of the Property and the urgency of the proposed renovations. Additionally, the Applicant is requesting expedited review for consent calendar approval under 11-Y DCMR § 401. Should the Board of Zoning Adjustment ("BZA" or "Board") decide to schedule this application for a hearing, the Applicant will file its Prehearing Statement no fewer than 21 days prior to the public hearing for this application.

Accordingly, for the reasons stated herein, the Applicant respectfully requests that the Board approve the requested special exception relief.

I. BACKGROUND

A. Description of the Property and Surrounding Area

The Property consists of Lot 821 in Square 155 and has a total land area of approximately 20,628 square feet. The Property is bound R Street, NW to the north, a condominium building to the west, a row house to the east, and a 15-foot public alley to the south. As shown on the Zoning Map submitted with this application, the Property is zoned RA-8 and is located within the Dupont Circle Historic District.

More generally, the Property is surrounded by residential uses (e.g., row homes), chancery uses to the west along New Hampshire Avenue, NW (e.g., Grenada Embassy, Embassy of Nicaragua, and Embassy of Belarus), and neighborhood-serving retail to the east along 17th Street,

NW. Confronting the Property to the south, across the 15-foot public alley, are several row homes that front along Corcoran Street, NW.

B. Description of Existing School and Proposed Renovations

The Property currently is improved with a public school building known as Ross Elementary School ("Ross"). The existing building, originally constructed in 1888, is a prime example of the redbrick box design used for many schools in the District during the late 19th century. Serving children in pre-school through fifth grade, Ross is situated in the heart of Dupont Circle in a charming historic building with a beautiful playground and play field. Impressively, Ross was a recent recipient of the National Blue Ribbon Award for Exemplary High Performance.

As shown on the attached plans, the proposed renovations will facilitate a systemic modernization of Ross. Most of the improvements are internal to the building and will be constructed in two separate phases. Phase one will involve the conversion of the existing attic space into learning spaces; specifically, two new classrooms and a library. Phase two will consist of improvements to the below-grade cafeteria, as well as the addition of an ADA-accessible elevator at the back of the school building. The installation of the elevator is a critical upgrade that will improve the building's accessibility and the overall experience for handicapped students. Overall, the project will implement several of the Elementary School Prototype Educational Specifications ("Ed Specs") that are set forth by the District of Columbia Public Schools.¹ The proposed modernization will not increase school capacity or result in any change in use.

Given the Property's historic designation, the Applicant has been collaborating with both the Historic Preservation Office ("HPO") and the Commission of Fine Arts ("CFA").

II. SPECIAL EXCEPTION RELIEF

A. Relief Requested

As stated above, the Applicant seeks special exception relief pursuant to 11-C DCMR § 1610.2 to permit a rear yard of approximately 6 feet, 3 inches (6.38 feet ±) which will accommodate the construction of an ADA-accessible elevator at the back of the school building. The Board is authorized to grant relief from the development standards applicable to public education buildings located in the RA-8 zone pursuant to 11-C § 1610.2, pursuant to the general special exception standard of review criteria set forth in 11-X DCMR § 901.2.

B. Burden of Proof

Pursuant to D.C. Code §6-641.07(g)(2) and 11-X DCMR § 901.2, the Board is authorized to grant special exceptions where it finds the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map, will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, and will meet such special conditions as may be specified in 11-Z DCMR Chapter 9. Relief granted

¹ Ed Specs are the guiding standards used by educators and design professionals to describe an educational program and facility.

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.*

C. Special Exception from Rear Yard Requirement for Public Education Building

Under 11-C DCMR § 1606.1, the minimum rear yard for a public education building located in the RA-8 Zone must be four inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 15 feet. As shown on the Applicant's plans submitted with this application (*see* Sheet A001), the installation of the ADA-accessible elevator at the back of the school building will establish a noncompliant rear yard of approximately 6.38 feet – a deviation of approximately 8.6 feet (57.3% ±) from the required standard. But pursuant to 11-C DCMR § 1610.2, the Board may approve a special exception to the development standards under Subtitle C, Chapter 16.

In this case, the proposed rear yard will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map. The Residential Apartment (RA) zones permit urban residential development with *compatible institutional* and semi-public buildings. *See* 11-F DCMR § 100.1 (emphasis added). Additional development standards are provided under Subtitle C, Sec. 1600, *et seq.*, to achieve such compatibility between certain structures (e.g., public education buildings) and residential uses, and further promote the objectives of the RA zone. *See* 11-F DCMR § 101.5. Given that special exception relief is possible under the circumstances of this application, the requested relief does not violate the spirit or intent of the Zoning Regulations.

As explained above, the elevator is a vital aspect of the Applicant's modernization project, as it will vastly improve the accessibility and overall experience for handicapped students. Importantly, the Applicant considered multiple schemes to determine the most favorable location for the elevator. HPO was not supportive of its installation on the east side of the building. Placing the elevator on the west side of the school building was also unfavorable, as it would be located on the Property lot line and would require a mass reconfiguration of the existing internal stairway. Ultimately, the elevator's installation at the back of the school represents the least burdensome option with respect to cost and its integration with the existing structure.

The special exception will not compromise the relationship between Ross and the row homes across the abutting 15-foot wide public alley to the south. While the elevator's installation will establish a noncompliant rear yard, doing so will not tend to affect adversely the use of neighboring property. As alluded to above, the Property has been used for educational purposes since the late 19th century. Surrounding property owners have therefore been long-accustomed to the school and the presence of young students and faculty on the Property. The requested relief does not involve a significant expansion of the building, or permit an unexpected intensification of the elementary school (i.e., influx in students). Essentially, the requested relief is needed to

serve the physically disadvantaged students of the school. The Applicant's modernization project will not significantly alter the character of the immediate neighborhood.

For these reasons, the proposed rear yard will therefore be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to adversely affect the use of neighboring property.

III. REQUEST FOR EXPEDITED PROCESSING AND REVIEW

A. Application is Necessary and Desirable for Expedited Processing

Pursuant to 11-Y DCMR § 400.7, the Board shall have the authority to expedite applications, provided: (a) The Office of Planning recommends expediting the case and indicates the reason an expedited process is necessary and desirable; and (b) expediting the application shall not result in removing another application from the public hearing agenda for that date. The Applicant requests that the Board exercise such authority in this case.

The existing school structure is in desperate need of the proposed upgrades and renovations. The Applicant is also under a strict timetable to complete the construction and deliver a modernized building for the 2021-22 school year. Accordingly, DGS intends to begin construction in the fall of this year. Given the importance of the project and the benefits the elevator will provide for certain students, an expedited process is necessary and desirable. Furthermore, the indefinite suspension of public hearings due to the COVID-19 pandemic has already delayed a substantial number of BZA applications. This application cannot afford to be placed at the back of a growing queue of cases.

As reiterated by the letters of support submitted with this application, the new elevator will serve as a tremendous asset to the school and the general modernization effort will improve the overall educational experience for Ross's students. Accordingly, the Applicant encourages the Board to prioritize this application and accelerate its processing.

B. Expedited Review – Waiver of Right to Hearing

For the reasons stated above, the Applicant is also waiving its right to a hearing for this application and is requesting consent calendar approval under 11-Y DCMR § 401. This application is accompanied by a waiver of the Applicant's right to a public hearing on the appropriate form provided by the Director. *See* 11-Y § 401.3.

IV. DESIGN FLEXIBILITY

In addition to the special exception relief and expedited processing/review discussed above, the Applicant respectfully requests design flexibility – with respect to both the exterior envelope and interior components of the school building – in order to make changes to the project that may deviate from the architectural plans submitted with this application, including any revisions needed to respond to feedback from the Historic Preservation Review Board and the Commission of Fine Arts. The Applicant recognizes that such design flexibility will be granted

so long as the changes do not increase the relief being requested under 11-C DCMR §1610.2, 11-X § 901.2, or create any new areas of relief that require further review by the Board.

V. COMMUNITY ENGAGEMENT

The Property is located within the boundaries of Advisory Neighborhood Commission ("ANC") 2B. As required under 11-Y DCMR § 300.8(1), the Applicant has apprised ANC 2B of this request for zoning relief, and will continue to engage and collaborate with the ANC on this project.