

BOARD OF ZONING ADJUSTMENT
Applicant's Statement of Community Housing for the Hearing Impaired

1203 ½ Otis Street, NE (Square 3927, Lot 15).

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

This Statement is submitted on behalf of Community Housing for the Hearing Impaired (the “**Applicant**”), owner of the property located at 1203 ½ Otis Street, NE (Square 3927, Lot 15) (the “**Property**”). The Applicant is proposing to demolish the existing building and construct a new building (the “**Building**”) on the Subject Property. The Building will conform to all development standards of the R-1-B Zone. The Applicant is proposing to use the new building for a health care facility geared towards semi-independent living for deaf and hard of hearing individuals. As described more fully below, the program will be run by Deaf-Reach, a non-profit agency committed to maximizing the self-sufficiency of deaf and hard of hearing people who need special services.

The Subject Property has been used for housing for the deaf community and those with disabilities since the early 1980s.¹ The use is defined as a community residence facility, now categorized as a health care facility² under the 2016 Zoning Regulations. A health care facility is a matter of right use in the R-1-B zone if it is limited to 8 residents. The existing building was limited to 6 residents and never required relief. Subtitle U-203.1(j) permits special exception approval for a health care facility between 9 and 300 persons. The new Building will have 15 rooms;

¹ BZA Order No. 13712 granted variance relief for a parking space and provides additional information about the original development. For example, the property was originally developed through HUD funding. The new building and program will also be developed using HUD funding.

² Defined as: **Health Care Facility:** A facility that meets the definition for and is licensed under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 32-44-501*et seq.*)

accordingly, the Applicant is requesting special exception approval pursuant to U-203.1(j).³ Additionally, the Applicant is seeking variance relief from D-305.1⁴ to set the building slightly further back than the existing range of front setbacks on the block in order to fit handicap ramps and an entryway.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief requested pursuant to Subtitle X-901.2 and U-203.1(j) and variance relief pursuant to X-1000.1.

III. BACKGROUND.

A. Description of the Property Location and Surrounding Area.

The Property is located in the R-1-B zone district. It is an interior lot measuring 7,500 square feet in land area. Abutting the Property to the north is Otis Street, NW. Abutting the Property to the south is a vacant lot. Abutting the Property to the west is 1203 Otis, also owned by the Applicant. That property is in the MU-4 zone and is being developed with the subject property for the proposed programming. Abutting the Property to the east is a detached single-family dwelling (1205 Otis Street). The area is primarily made up of low to moderate density residential uses.

B. Proposed Use.

The Applicant owns the Subject Property as well as the Property to the west, at 1203 Otis Street, NE. The adjacent property is located in the MU-4 zone and is being developed as a

³ The Plans also show "Building A" which is located on 1203 Otis and is in the MU-4 zone. That lot is being developed by right, but the programming will be related; therefore, it has been included on the plans.

⁴ D-305.1 A front setback shall be provided within the range of existing front setbacks of all residential buildings within an R-1 through R-3 zone on the same side of the street in the block where the building is proposed.

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matter-of-right (see "Building A") on the plans. The proposed Building on the Subject Property is labeled as "Building B" on the plans. The Building itself will meet all matter-of-right development standards of the R-1-B Zone—except for the front setback requirements as discussed below in Section V. The proposed parking for Building B will be located in the parking garage under Building A.

In terms of the use, the current use of 1203 ½ Otis Street, NE is as a rental home for 6 unrelated Deaf/Hard of Hearing Adults with disabilities. Each tenant has a bedroom, and they share 2 full baths and 2 ½ baths. They also share a kitchen, living room, dining room, and a finished basement. The intended use of the new project will be as a group home/care facility for 15 Deaf and Hard of Hearing adults. There will be staff in the building 24 hours per day. Meals will be provided, as well as education and recreational activities. Each resident will have their own bedroom and bathroom. The entire facility will be accessible for people with physical disabilities and fitted for deaf and hard of hearing technology. There will be one large kitchen and dining space and three community/living spaces.

IV. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF.

A. General Special Exception Criteria.

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. The proposed use is still considered a residential use under the zoning regulations and is appropriate in this location given the size of the lot and existing use of the lot. The building entry will be set back and due to the

nature of the use, the Applicant does not anticipate increased noise. The property is located .2 miles away from the Brookland-CUA metro station.

B.. Requirements of Subtitle U-203.1(j).

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 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).

The proposed use is defined as a community residence facility, which is categorized as a "health care facility" under the Zoning Regulations. When limited to only 8 residents, it is considered a matter-of-right use. The regulations permit up to 300 residents via special exception. The Application meets the requirements of U-203.1(j) as follows:

(1) In R-Use Group A, there shall be no other property containing a health care facility either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property;

Based on a review of the area using publicly available information and the GIS Map, there is not another health care facility within 1,000 square feet of the Property.

(2) In R-Use Groups B and C, there shall be no other property containing a health care facility either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property;

The property is not in R-Use Groups B and C.

(3) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

Parking will be provided under the proposed "Building A" on 1203 Otis Street. The Applicant is meeting all off-street parking requirements for both buildings under Building A.

Therefore, there shall be adequate, appropriately located, and screened off-street parking to provide for the needs of all occupants, employees, and visitors to the facility.

(4) The proposed facility shall meet all applicable code and licensing requirements;

The proposed facility will meet all applicable code and licensing requirements.

(5) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and

The property is currently used as a health care facility for 6 persons and has operated without issue for years under the same ownership. The owner is now proposing to increase the capacity by only 9 residents and create a new building with better quality living spaces for residents. The proposed density is still quite limited considering that a community residence facility for up to 300 residents is permitted via special exception.

(6) More than one (1) health care facility in a square or within the distances of (1) and (2) above may be approved only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations;

Based on a review of the area using publicly available information and the GIS Map, there is not another health care facility within 1,000 square feet of the Property.

V. THE APPLICATION MEETS THE AREA VARIANCE REQUIREMENTS

The Property is located in the R-1-B Zone where new buildings must be within the range of existing setbacks on the block. There are only 6 other buildings on this block, and they have a range of setbacks between 9.5 feet and 30 feet. The existing building—which the Applicant is proposing to demolish—has an existing setback of 85 feet. As the Applicant is demolishing the existing building, it may not be able to use the existing setback to establish the range.⁵ Similar to

⁵ The Applicant will obtain a determination on this point from the Zoning Administrator on a subsequent PDRM.

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the existing Building, the Applicant is providing handicap accessible ramps and access at the front of the Building requiring a setback of between 36-45 feet. Accordingly, the Applicant is seeking variance relief from D-305.1.

In *Neighbors for Resp. Gov't*, the Court of Appeals held “that when a nonprofit organization applies for a variance as being necessary to enable it to meet a public need or serve the public interest without undue burden, the BZA has discretion to take the public benefit into account in assessing whether the requirements for a variance are met (including the existence of an exceptional condition affecting the property).” *Neighbors for Responsive Gov't, LLC v. D.C. Bd. of Zoning Adjustment*, 195 A.3d 35, 59 (D.C. 2018)

In this case, the Property is unique in that it is already improved with a building that is already set back significantly and not within the range of the other buildings. There is also a significant slope up from the sidewalk and property line to the grade where a building is feasible. The proposed use as a home for deaf and hard of hearing individuals requires ADA accessible ramps at the entry of the Building. These ramps take up space at the front of the property and drive the need for the front setback. Without the relief, the Applicant would face a practical difficulty as it would not be able to fit the ADA ramps and therefore the property could no longer be used as a residence for the deaf and hard of hearing—a use that has existed on the property for about 40 years.

As noted above, the Board has discretion to take into account the public benefit of the proposed use when a nonprofit organization applies for a variance that would enable it to meet a public need or serve a public interest without an undue burden. In this case, the proposed Building will be closer to the range of setbacks for the other houses on this block and will provide necessary ADA ramps for the residents of this property. The proposed use serves a

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public need as it allows deaf and hard of hearing individuals to live semi-independently with some live-in support.

VI. CONCLUSION.

For the reasons stated above, this Application meets the requirements for special exception and area variance relief by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,

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