

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Applicant’s Statement of Euclid Flats LLC
733 Euclid Street, NW (Square 2884, Lot 836)

I. INTRODUCTION.

This Statement is submitted on behalf of Euclid Flats LLC (the “**Applicant**”), owner of the property located at 733 Euclid Street, NW (Square 2884, Lot 836) (the “**Property**”). The Applicant intends to raze the existing building and subdivide the Subject Property into four new record lots. Each lot will be subdivided by right, with 20 feet of lot width and 2,850 square feet of land area. The subdivision is permitted as a matter-of-right and the proposed use on each lot (a flat) will also be permitted as a matter-of-right. The proposed buildings will require two areas of relief: the westernmost lot will require special exception relief from the ten-foot rule requirement (E-205.4) and the buildings will require variance relief from the front setback requirements of B-315.1(c).¹ The proposed development will be aptly named “The Emergence Arts Development” to honor the existing building on the site, which was the home of the Emergence Arts Collective for many years.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief requested pursuant to DCMR X § 901.2, E § 205.5, and E § 5201; and variance relief pursuant to X-1000.1.

¹ The proposal meets the specific front setback criteria of the RF-1 Zone (E-305.1), which requires that proposed setbacks be within the range of the existing setbacks on the block. However, Subtitle B-315.1(c), which governs the rules of measurements for front setbacks, requires that “in the case of an interior-lot row or semi-detached building, not be further forward or further back than the building façade of one (1) of the immediately adjoining buildings.” The Applicant is seeking a determination via a PDRM as to whether it needs front setback relief for all four buildings or whether it can choose one of the buildings to seek relief and use that to establish the new setback point for the other three buildings. For now, it seeks relief for all four buildings out of an abundance of caution.

III. BACKGROUND.

A. Description of the Subject Property and Surrounding Area.

The Property is located in the RF-1 Zone District, one half-block from Georgia Avenue. Abutting the Property to the north is a public alley. Abutting the Property to the south is Euclid Street, NW. Abutting the Property to the west is a single-family row dwelling. To the east of the Property is a row building being used as a flat. The area is characterized by a variety of residential uses, including single-family dwellings, flats, condos, and commercial uses along Georgia Avenue.

B. Proposed Project.

The Applicant is proposing to subdivide the existing lot into four new record lots, which is permitted as a matter-of-right. Each lot will be improved with a row dwelling used as a flat (the “**Project**”). The lots and buildings have been designed to meet the development criteria of the RF-1 Zone, except that the westernmost lot will need relief from the ten-foot rule as it extends 34 feet and 3-1/4 inches beyond the rear wall of the adjoining row dwelling to the west. The row dwelling to the east at 727 Euclid occupies a significant portion of its lot and will extend further than the proposed buildings even after the Project is complete. The Applicant is also seeking variance relief from the front setback rules of measurement (B-315.1(c)). As described more fully below, it is not feasible to match one of the adjoining properties’ front setback due to the topography on the lot. The lots and buildings will be identical and will otherwise meet the applicable development standards of the RF-1 Zone.

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

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.

1. Requested relief will be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps.

The Project and requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The Subject Property is located in the RF-1 Zone; the RF zones “are distinguished by a maximum number of principal dwelling units per lot of either two (2), three (3), or four (4) units.” (E § 100.4). The use itself (a flat) is permitted as a matter-of-right and the purpose and the building itself meets the height, lot occupancy, and other rear yard requirements of the RF-1 zone. Accordingly, the proposed Project and use will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

2. Requested relief will not tend to affect adversely, the Use of Neighboring Property in accordance with the Zoning Regulations and Zoning Maps.

As this is a row house zone and neighborhood, where flats are permitted as a matter-of-right, the provision of new row dwellings in a block of row homes should not adversely affect the use of neighboring properties. Furthermore, the proposed Project is within the height, lot occupancy, and 20-foot rear yard requirement of the RF-1 Zone.

B. The Application meets the Specific Requirements of Subtitle E § 5201.

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.

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See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

Subtitle E § 5201(b) permits special exception relief from “yards” subject to the criteria of E § 5201.4-6. The Applicant is requesting relief because the westernmost will extend 34 feet and 3-1/4 inches past the rear wall of the adjoining building to the west. The request meets the relevant criteria for special exception relief as follows:

Section 5201.4(a) “The light and air available to neighboring properties shall not be unduly affected;

The additional 24 feet and 3-1/4 inches of building length will not unduly affect light and air available to the neighboring property to the west. The Applicant will provide shadow studies demonstrating that the light and air available to the building to the west shall not be unduly affected.

Section 5201.4(b) “The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

The privacy of use and enjoyment of any neighbors will not be unduly compromised by the proposed Buildings. There are no proposed windows on the side of the proposed Building.

Section 5201.4(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;

The Project, as viewed from the street, shall not substantially visually intrude upon the character, scale, and pattern of houses along Euclid Street. As demonstrated by the photographs included with this Application, there is a steep topography which makes it difficult to view a number of the Buildings on this side of Euclid Street. Furthermore, the proposed building and Project will be more in character with the neighborhood than the existing house. This is because

many of the houses on this block are row dwellings and the proposal is for four new row dwellings. The pattern along the alley includes a variety of setbacks and the proposed Project will not substantially visually intrude upon the character scale and pattern of houses along the subject street frontage or alley.

V. AREA VARIANCE

There are two provisions governing front setbacks in the RF-1 Zone. Subtitle E § 305.1 states: "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." Subtitle B, which is intended to provide "rules of measurement" for front setbacks, also includes more restrictive provisions that a new development must also meet. Subtitle B § 315.1 states: "A proposed building façade or structure facing a street lot line shall: (c) In the case of an interior-lot row or semi-detached building, not be further forward or further back than the building façade of one (1) of the immediately adjoining buildings."

Section B § 315 requires that each building match the front setback of one of the immediately adjoining buildings and E § 305 requires that each building be within the range of existing front setbacks on its subject street. The current building on site is a completely detached building which does not match the setback of either of the adjacent row dwellings. While the proposed buildings will be within the range, meeting E-305, the proposed buildings will not match the respective row dwellings to the east or west. Accordingly, the Applicant must seek variance relief from B-315.1(c).

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 from the front setback requirements.

A. Extraordinary or Exceptional Condition affecting the Subject Property and the Applicant will face a Practical Difficulty if the 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.2d 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.2nd 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.

The Property is currently improved with the only detached dwelling on the block. All other buildings are already attached to another building and many of the buildings do not match any adjoining building. Accordingly, the property is unique in that it is the only property in the block that would feasibly propose new row dwellings as it is the only property with land to subdivide in such a manner. Any new row dwelling proposed elsewhere would simply be replacing an existing row dwelling and therefore would not face the same issues as the Subject Property. That is because the Applicant is simply proposing to maintain the approximate setback of the existing building; the new buildings will only be about 1 and a half feet closer to the street. The Applicant is proposing to locate the new buildings in approximately the same location as the existing building due to the existing grade—the Applicant cannot manipulate the grade and the new buildings will be measured using the existing natural grade at the BHMP. Using the existing setback limits the amount of lower level gets “buried” in the front and rear due to the steep topography drop at the front of the lot.

Even moving the building five feet forward to match the building to the east, for example, would cause the Applicant to lose a story. The existing building is located on the flattest part of the lot which sits at 180 feet. The Property's topography sharply drops off at the front and is approximately 174 feet at the point where the front of the Building would be adjacent to the building to the east. In order to construct a building to match the building to the east, the Applicant would have to raise that grade to 180 feet to match the grade at the flat part of the lot; however, the zoning regulations do not permit an owner to manipulate the grade through creating a retaining wall and backfilling with earth to increase the elevation grade. BHMP must be measured from the natural, existing grade, not a new grade. Since the new 180 feet grade is 6 feet higher than the existing grade, the BHMP would essentially be established underground and

way below the new grade. This would have significant impacts such as requiring a large retaining wall, which would increase costs, as well as limit the number of stories. Consequently, this option is simply not feasible. The other option would be to push the building back to match the other setback. This option severely limits the rear yard space and the quality of the rear yard. It would also situate the front of the building closer to the middle of the lot and does not make sense to position the Building so far back.

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. As described above, the Project meets the purpose and intent of the zoning regulations as it is still within the range of the front setbacks on the block—which is the specific requirement of this particular zone. The requested relief will also shift some of the bulk of the building towards the front of the lot, avoiding setting the building any further back than is already proposed. This will limit the proposed relief for the ten-foot rule and impact on the adjacent neighbor to the west. The overall building footprint will be smaller than the building to the east.

VI. CONCLUSION.

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

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Respectfully submitted,

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