

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**ADVISORY NEIGHBORHOOD COMMISSION 3B**  
**GLOVER PARK AND CATHEDRAL HEIGHTS**



**ANC3B Resolution in Support of Zoning Variance Request in BZA Case 20542**  
**For Construction of Six Residential Flats at 2405 37<sup>th</sup> Street NW**

Whereas, the property owners at 2405 37<sup>th</sup> Street NW in ANC3B02 are applying for zoning approval to construct a proposed residential development on Lots 329 and 330 at that location;<sup>1</sup>

Whereas, the property is in the R-3 zone in an area of row houses, apartments, and mixed use development near the main commercial corridor of Glover Park along Wisconsin Avenue NW;

Whereas, the property has been occupied by a single family residence for as long as the neighborhood has existed and has been the subject of multiple proposals for higher density residential use, none of which have gone forward;

Whereas, the neighborhood and ANC3B have supported redevelopment of that property to provide more housing compatible with the neighborhood and nearby properties;

Whereas, housing is in high demand in our Commission area and the neighborhood suffers an extreme shortage of housing, particularly units with more than one or two bedrooms;

Whereas, the existing structure is in deteriorating condition and the property as a whole has long been an eye sore that detracts from the integrity, safety and health of the neighborhood as a whole;

Whereas, the particular and exceptional conditions of the property at 2405 37<sup>th</sup> Street NW have created such practical difficulties for the owner to develop those lots within the R-3 zoning standards that the owners have not been able to make productive use of their property for several decades.<sup>2</sup> Specifically, we would cite:

- the unusual shape of the property, which narrows to less than 60 feet wide at the eastern edge, which is less than the width required to accommodate three conforming lots and row houses;
- the proximity to commercial properties directly to the east and south, without an alley or other buffer, which makes construction of single family homes very difficult and less than attractive for buyers;
- the lack of on-street parking and lack of alley access or space for off-street parking, which makes it necessary to construct underground parking, adding significantly to the total building costs and necessitating construction of more residences on the property to spread the costs of the underground construction over a larger number of units;

Whereas, unlike any other part of the neighborhood or street, the subject property is part of a very short stretch of three residences built as single family homes on the east side of that block of 37<sup>th</sup> Street, which are now isolated with commercial properties to the east, north and south, some of which are in R-3 and others in MU-27;

Whereas, several nearby properties to the north and south of the subject property have been developed as apartments/condominiums or flats, within the same height limit and other area requirements applicable to Lots 329 and 330, including the 4-unit building at 2409 37<sup>th</sup> Street (in MU-27) and the 5-unit apartment/condominium at 2325 37<sup>th</sup> Street (in R-3), so they were allowed in a different use category than single family or row houses;

Whereas, the Office of Planning Report concluded that the proposed development “would not likely have a substantial be detrimental impact to the public good. The buildings as proposed would have a bulk similar to others in the area, and the site is close to a commercial corridor.” In addition, the OP report found that “The resulting lots would not be particularly out of scale with others in the area, and would result in buildings that would not be out of scale with the streetscape.”

Whereas, the height, lot occupancy, front and rear setback, permeable surface and parking in the proposed structures are all within the standards applicable for that property in the R-3 zone;

Whereas, the width of the proposed structures and lots as well as lot area do not appear to be substantially below the minimums set in zoning regulation, and may be within the range that is in the discretion of the Zoning Administrator to allow as a matter of right without a variance;

Whereas, the land use identified for that area in the 2021 DC Comprehensive Plan for future planning is moderate density housing, which includes flats as well as row houses, and there already are apartments/flats in that same block, including within the R-3 zone;

Whereas, the applicants’ proposal in BZA Case 20542 would provide much needed housing in the area and the structures would be compatible with the nearby buildings, streetscape, and neighborhood n appearance, bulk, and use, as well as consistent with the land use indicated on the current Future Land Use Map;

Whereas, the ANC has received six letters of support for the proposed project from nearby residents, including the neighbors living immediately to the north as well as a resident at the next address to the north of that, and two neighbors living across the street; <sup>3</sup>

Therefore, be it resolved that the ANC finds that extraordinary and exceptional situation or condition of the specific piece of property subject to the application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, if the zoning regulations were strictly applied, and thus the standards for receiving a use variance are met;

The ANC also finds that the strict application of the zoning regulations on area including minimum lot width, structure width, and lot size would result in peculiar and exceptional practical difficulties or exceptional and undue hardship to the owner of property, and thus the standards for receiving an area variance are met, while the requested variance for any planned roof deck or roof hatch does not seem to be required;

Be it also resolved that the ANC strongly recommends that the Board of Zoning Adjustment approve the needed variances to allow construction of the proposed development at 2405 37<sup>th</sup> Street NW as six residential flats, and grant any other zoning relief needed by the proposed project; <sup>1</sup>

This resolution was approved by a vote of 4 - 0 at a duly noticed public meeting of Advisory Neighborhood Commission 3B on December 9, 2021, at which a quorum was present. (Three of the five members constitute a quorum.)

By this vote, the Commission also designates Commissioner Blumenthal or her designee to represent the Commission on all matters pertaining to this resolution.



Brian Turmail, Chairman



Ann Lane Mladinoo, Secretary

## FOOTNOTES

### <sup>1</sup> REQUESTED ZONING RELIEF

The Applicant requests three variances:

1) Use Variance, pursuant to Subtitle X § 1002.1(b), from Maximum Number of Dwelling Units, Subtitle D § 201.1, which permits one principal dwelling per lot of record and one accessory dwelling unit. The application proposes two principal units or “flats” on each of the proposed three lots, which would generally be equal or close to the same size except for the ground floor unit on the south side. The ANC supports a variance to allow the proposed construction of flats.

2) Area Variance, pursuant to Subtitle X § 1002.1(a), from Density, Lot Dimensions, D § 302.1 (20-foot minimum lot width and 2,000 square foot minimum lot area required for row buildings). The application proposes three structures that would have a width of 20 feet 4 5/8 inches at the east end, and approximately 20 feet at the half way point of the proposed structures, but then narrow at the front of the lot to 18.95 feet, 19.3 feet, and 18.35 feet (in order, from north to south) and an average of 1,800 square foot lot area (1917 square feet, 1794 square feet, and 1672.1 square feet respectively). The structures themselves, which are designed with a front wall parallel to the diagonal street along the front of the property, would have widths of 19 feet 4 1/8 inches, 20 feet 5/8 inches, and 19 feet 8 3/8 inches respectively. The Applicant reported that the Zoning Administrator has stated the proposed dimensions are within his latitude to permit as a matter of right. The ANC would support that conclusion, or support a variance if the Board finds it is required.

3) Relief from the Penthouse General Regulations for the roof deck. The Applicant notes in “Burden of Proof” (Exhibit 47) that this third variance may not be necessary. In the Office of Planning Report (Exhibit 49), OP concurs with the Applicant and therefore makes no recommendation on that request. The ANC supports OP’s conclusion, but would support a variance if the Board finds it is required.

### <sup>2</sup> APPLICABLE ZONING REGULATIONS

For a use variance, DC Zoning Regulations provide in Subtitle X:

“§ 1002.1 (b) With respect to variances, the Board of Zoning Adjustment has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) [w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.”

For an area variance, DC Zoning Regulations provide in Subtitle X:

“§ 1002.1(a) An applicant for an area variance must prove that, as a result of the attributes of a specific piece of property described in Subtitle X § 1000.1, the strict application of a zoning regulation would result in peculiar and exceptional practical difficulties to the owner of property.”

### <sup>3</sup> PUBLIC COMMENTS

ANC3B heard a presentation from the Applicants at the duly noticed November 18, 2021, ANC3B public meeting where comments and questions were invited. Email comments were also invited. In addition to the six letters of support for the proposed project, which are in the case record (Exhibits 41-45 and Exhibit 48), the ANC received expressions of concern about the proposal from Ellen Mawhinney of 2325 37<sup>th</sup> Street at the November 18 public meeting and in an email, also in the case record (Exhibit 54), representing 5 owners at the nearby condominium apartment at 2325 37<sup>th</sup> Street and two owners at 2323 37<sup>th</sup> Street. That email raised several questions about the interior details of the plan and the question of whether the units would be offered for lease or for purchase, which do not appear to be details relevant to the legal matters in the case.