

## STATEMENT OF PRACTICAL DIFFICULTY

**General Project Narrative:**

The Proposed project seeks to provide new residential units primarily focused on student housing. The site is zoning MF-3 which allows for high density multifamily buildings; however the existing historic buildings would need to be demolished to allow for a new conforming building to be built. The proposed development seeks to add 3 new structures while maintaining the existing historic buildings, to maintain the scale and character of the surrounding structures. Two of the three proposed structures are actually groups of 4-5 bedroom townhomes, however since they will be rented by the bedroom, they technically fall into the category of "boarding house" instead of apartments or townhomes. This concept of a shared unit by 3-5 unrelated students is common in campus areas as it allows upperclassmen or graduate students an alternative to a dormitory while being more affordable than an entire apartment. Should the requested variances be granted, the project will submit all the required stormwater, landscape, etc. plans for review and approval. A conditional use application has been made to the Planning Commission for the proposed Boarding House use, to be heard at the February commission meeting. The strategy for adding to the density of the site while maintain the historic buildings, as well as the use classification of the new structures results in the need for the following variances:

**Variance 1 - Zoning Code Section 1123.08, Building Arrangement and Spacing of Multiple Buildings:**

Building 1 and the Existing House - code would require a distance of 54' between these buildings.

Building 2 and the Existing House - code would require a distance of 54' between these buildings.

Building 1 and the Existing Apartment Building – code would require a distance of 60' between these buildings

*A. Explain special conditions or circumstances that exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same Zoning District.*

The proposed project allows for a much higher density than the code allows, however the existing historic structures are located in such a manner that additional buildings cannot be added and meet the requirements of 1123.08. Refer the Zoning Plan for the Existing, Proposed, and Maximum allowable floor areas (FAR).

*B. Explain how the property in question would not yield a reasonable return or there could not be any beneficial use of the property without the variance:*

The existing structures on the site only amount to 40% of the sites allowable density (floor area). The proposed project only achieves 56% of the max allowable density. Refer the Zoning Plan for the Existing, Proposed, and Maximum allowable floor areas (FAR).

*C. Explain whether the variance is insubstantial:*

Allowing the reduction in the separation between buildings will not impact any of the adjacent properties. The proposed project is similar to the scale of the Herrick Mews (Overlook Rd. Carriage House District), the Brownstones of Derbyshire, and the new townhomes at the College Club building.

*D. Explain whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance.*

By granting the requested variances, the city will ensure the historic structures will be maintained, and the scale of the buildings will be consistent with surround historic structures. If

the existing house and carriage house were to be demolished, the code would allow for a building of nine to ten stories (+/-100 ft tall) with a min. setback of 40 ft from the rear & side yard and 53 ft from the existing apartment building, with a total site floor area of 159,115 square ft.

*E. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage).*

The proposed project would not have an adverse impact on the delivery of public services. The existing Dumpster location will remain and service all the units on the property.

*F. Did the applicant purchase the property without knowledge of the zoning restriction?*

The applicant was not aware of the limitations of the zoning on the potential development of the site. Given the large scale development proposed on the adjacent site to the south (Top of the Hill project) the applicant assumed that based on the MF-3 zoning of the site that additional development on this property would be supported by the City.

*G. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of actions of the owner.*

All the variances requested are the result of the desire to maintain the historic buildings that existed on the site long before the current owner acquired the property.

*H. Demonstrate whether the applicant's predicament feasibly can be resolved through a method other than a variance*

As previously stated, the only alternative to further develop the site would require the demolition of the historic buildings, and the construction of a structure that would not be in keeping with the scale of the neighboring historic fabric.

*I. Explain whether the spirit and intent behind the zoning requirement would be observed and/or substantial justice done by granting the variance.*

The intent of the MF-3 zoning district is to allow for greater density than currently exists on the site. By granting the variance, the site will be allowed to be further developed closer to the allowed density, while ensuring that the historic scale of the surrounding context be maintained.

*J. Explain whether the granting of the variance requested will or will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.*

By definition, the variance will grant a privilege not allowed by the zoning code, but this privilege is one that has been granted to similar developments in the surrounding area as mentioned in the answer to Item C. Additionally, by granting the variance request, the city ensures the preservation of the existing historic structures maintains the scale and of the neighboring context, will allowing for the increased density to the site.

**Variance 2: 1161.11 Improvement and Maintenance Standard (c) Circulation Aisles –**

Permitted to be a maximum of 24' with two-way circulation AND (1) 22' minimum required for 90 degree parking

- A. The drive aisle configuration and width is determined by the requirement to allow for firetruck access to and through the site, again based on maintaining the existing historic buildings.
- B. Refer previous answer.
- C. The areas where the drive aisle exceeds the maximum has no impact on adjacent properties.
- D. The storm water management plan accounts for the proposed paved area.
- E. The variance is necessary to provide for fire & emergency vehicle access to and thru the site.
- F. Refer answer from Variance 1 request above.
- G. Refer answer A above.
- H. Refer answer from Variance 1 request above.
- I. Refer answer from Variance 1 request above.
- J. The variance allows no special use of the site, it's only intent is to allow for fire-truck & emergency vehicular access.

**Variance 3 – Zoning Code Section 1123.07 Minimum Yard Regulations (c)**

Rear Yard abutting a MF district requires 15'; the site plan shows 5'

- A. The existing site contains a garage structure that is right on the rear property line. The proposed development locates a carriage house unit along the rear of the property setback the required 5'-0" for parking but cannot meet the 15ft setback required for structures based on the distance to the historic building house located in the middle of the site.
- B. Based on the achieved density only at 56% of the allowed by MF-3, the loss of any units has a negative impact on the viability of the proposed project.
- C. Similar carriage house units have been constructed in the area, for example the Brownstones of Derbyshire, as a means of increasing density, while also screening parking from the adjacent parcel. In addition, the existing 1 story non-conforming garage build right to the property line is being demolished and the new carriage house shifted to the east adjacent the drive aisle of the neighboring 2 story apartment building rather than the historic carriage home that is part of Herrick Mews.
- D. As stated in answer C above as well as Variance request 1, this type of structure is in keeping with the scale and character of the neighboring context.
- E. The reduced setback will not have an adverse impact on the delivery of public services.
- F. Refer answer F from Variance Request 1 above.
- G. Refer answer G from Variance Request 1 above.
- H. Refer answer H from Variance Request 1 above.
- I. Refer answer I from Variance Request 1 above.
- J. Refer answer J from Variance Request 1 above.

**Variance 4 – Zoning Code Section 1161.03 Parking Spaces Required**

See the table below for required and proposed off street parking spaces.

Principal Building or Use		Minimum Spaces Required	UNITS	REQUIRED	
(a)	Residential Uses:			ENCLOSED	SURFACE
(1)	Single-family dwellings	2 spaces, of which both spaces shall be enclosed (a)(b)			
(2)	Two-family dwellings	2 spaces for each dwelling unit, of which both spaces per dwelling unit shall be enclosed (a) (b)			
(3)	Townhouses	2 spaces for each dwelling unit, of which both spaces per dwelling unit shall be enclosed.			
(4)	Multi-family dwelling	1 space for each dwelling unit, of which not less than .5 space per unit shall be enclosed.	53	27	26
(5)	Senior citizen apartments	1 space for each dwelling unit, of which not less than 0.5 spaces per dwelling unit shall be enclosed.			
(6)	Lodging house, boarding houses	1 space for each bed.	58		58
(7)	Dormitories, sororities and fraternities	1 space for each 3 persons based on the maximum capacity as established in the Housing Code.			
(8)	Nursing homes	1 space per 3 beds			
				27	84
				111	
				PROPOSED	
				ENCLOSED	SURFACE
				34	59
				93	

- A. The required parking based on the use classification of the shared townhomes as a “boarding house” results in the inability to meet the parking requirement. If considered as a dormitory however the proposed development would exceed the required parking. Given the target rental market of students & the proximity to colleges & universities as well as public transit create the condition that a reasonable number of tenants will not have a vehicle / need for a parking space.
- B. To meet the parking requirement would require the reduction of units, which would be detrimental to the development.
- C. As stated in answer A above, it is likely that not all residents of the Boarding Houses (aka townhomes) will have cars. If using a ratio of 1 car per 2 bedrooms, the proposed plan would exceed the requirement. Additional parking options are available in the area and could meet the demand if needed.
- D. Additional surface parking is not in keeping with the character of the neighborhood.
- E. The reduced number of parking spaces will not have an adverse impact on the delivery of public services.
- F. Refer answer F from Variance Request 1 above.
- G. Refer answer G from Variance Request 1 above.
- H. Refer answer H from Variance Request 1 above.
- I. The likely use of the proposed “boarding houses” is more in keeping with that of a Dormitory, so we believe that the proposed project meets the spirit of the code if not the letter.
- J. Refer answer J from Variance Request 1 above.