

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

**APPLICATION OF
28th STREET PARTNERS, LLC**

**64 W STREET, NW
ANC 5E**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of 28th Street Partners, LLC (the “Applicant”), the owner of property located at 64 W Street NW, Lot 52 in Square 3118 (the “Property”) in support of its application for special exception relief to convert an existing residential building to a three-unit apartment house in an R-4 District.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the special exception relief requested pursuant to 11 DCMR §3104.1.

III. BACKGROUND

A. Background Information Regarding the Property

The Property, also known as Lot 52 in Square 3118, contains approximately 2,880 square feet of land area and is located in Northwest Washington, D.C. Square 3118 is bounded by North Capitol Street NW to the east, V Street to the south, First Street NW to the west, and W Street NW to the north. *See* Baist Atlas Map at **Tab A**. The Property is presently improved with a vacant attached 2-story building. The Property has 20 feet of frontage along W Street Avenue NW. The Property is not located within any historic District, and the existing building on the Property is not listed on the D.C. Inventory of Historic Sites.

B. Description of the Improvements in the Surrounding Area

The Property is located in the LeDroit Park - Bloomingdale neighborhood. The Square is zoned R-4 but is only 3 blocks from highest density zones. Notably, Howard University, which is zoned D/R-5-B is only 2 ½ blocks west of the Property. See Zoning Map at **Tab B**. Square 3118 is occupied primarily by rowhomes, with a few semi-detached dwellings, and flats. There are several government, educational and medical buildings located within a half mile of the Property including the Armed Forces Retirement Home, the MedStar National Rehabilitation Hospital, the Veterans Affairs Medical Center, the Children's National Medical Center, The Catholic University of America, Trinity Washington University, Basilica of the National Shrine of the Immaculate Conception and McMillian Reservoir.

C. Description of the Traffic Conditions and Mass Transit Options in the Surrounding Area

The Property is well serviced by a number of public transportation facilities and services including Metro, Metrobus routes, Capital Bikeshare, and Zipcars. The Property is located approximately 0.6 miles from the Shaw Metro Station and 0.8 miles from the Rhode Island Avenue Metro Stations. Moreover, Metrobus routes along North Capital Street (80), Rhode Island Avenue NE and NW (70), and Elm Street NW (G2 and G8) all serve the Property. In addition, the Property is within close proximity to a number of the District's bikesharing and carsharing programs. Seven Capital Bikeshare stations are located within .5 miles of the Property. The closest is at Rhode Island Avenue NW and First Street NW (13 docks). Several Zipcar spaces are located within walking distance including 1 space at LeDroit Park and 3rd Street NW. Another local car-sharing program, Car2Go, reported in July 2013 that the use of the company's car-sharing service in the District had reached over 25,000 and that the fleet was expanded from 300 vehicles to 400 vehicles to accommodate increasing demand. Car sharing is also available from Hertz on Demand and RelayRides. On walkscore.com, the Property received a walkscore of 78 out of 100 and is deemed "very walkable"; and a transitscore of 72 out of 100 and is deemed "excellent transit".

D. Description of the Proposed Development

As shown on the architectural plans, *See Architectural Plans and Elevations at **Tab C***. The Applicant proposes to convert the Property from a vacant single family dwelling into an apartment house with three units. The Applicant proposes to construct a 10 foot rear addition, a rear deck, and a roof top deck. The proposed structure will have a 1-bedroom unit in the cellar and 2-bedroom units on the first floor and second floor. The Property will provide two parking spaces at the rear of the lot.

IV. NATURE OF SPECIAL EXCEPTION RELIEF AND STANDARD OF REVIEW

The Zoning Commission, pursuant to Order 14-11, altered the standard for conversions of residential buildings to apartment houses in the R-4. Pursuant to 11 DCMR §3104, and subject to the new 11 DCMR §336, the Board is authorized to grant a special exception to permit the conversion of a residential building into an apartment house where it finds that 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 adversely affect the use of neighboring property, subject in each case to the special conditions specified. 11 DCMR §3104.1.

Unlike an area variance, relief granted 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.*

V. APPLICANT MEETS BURDEN FOR SPECIAL EXCEPTION RELIEF

Applicant meets all of the requirements of 11 DCMR §336.2 through §336.11 issued under the Zoning Commission's Notice of Final Rulemaking & Order No. 14-11.

1. §336.2

Pursuant to 11 DCMR §336.2, the maximum height of a residential building and any additions thereto shall not exceed thirty-five (35 feet), but the BZA may grant a special exception under §3104 subject to §§ 336.3 through 336.11. The Property complies with this requirement. The height of the structure is not changing. The height of the building will continue to be 28 feet 3 inches.

2. §336.3

Under §336.3, the dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Chapter 26, Inclusionary Zoning, including the set aside requirement set forth at § 2603.9. The Property will contain only 3 units, and therefore this subsection is not applicable.

3. §336.4

Section 336.4 requires that there must be an existing residential building on the property at the time of filing an application for a building permit. There is an existing two-story residential building on the property and it will still be there at the time of filing an application for a building permit. The existing residential structure is vacant and in disrepair. The developer intends to renovate and improve the existing structure.

4. §336.5

Pursuant to §336.5, there shall be a minimum of 900 square feet of land area per dwelling unit. The Applicant seeks to construct 3 units, which requires 2,700 square feet. The Property contains 2,880 square feet of land area; therefore the Property complies with this requirement.

5. §336.6

Pursuant to §336.6, any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code. The adjacent properties located at 62 and 66 W Street NW do not have chimneys or other external vents. Moreover, the Applicant is not adding an additional story, only a rooftop deck. The rooftop deck will have a short 2 foot-6 inch railing. The railing will not block or impede the functioning of a chimney or other external vent on an adjacent property. Therefore, this section does not apply. *See* attached aerial at **Tab D**.

6. §336.7

Under §336.7, any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator. The only adjacent properties, 62 and 66 W Street NW, do not have existing or permitted solar energy systems. Therefore, this section does not apply. *See* attached aerial at **Tab D**.

7. §336.8

Pursuant to §336.8, a roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size. The Property has a mansard roof with clay tiles and a small dormer. The roof top architectural elements of the structure will remain unchanged. The proposed rooftop deck will be located at the rear of the structure. As such, the existing roof top architectural elements will not be move or altered. *See* architectural plans at **Tab C**.

8. §336.9

Pursuant to §336.9, any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting dwelling or property, in particular. The light and air available to

neighboring property shall not be unduly affected, the privacy of use and enjoyment of neighboring properties shall not be unduly compromised, and the conversion and any associated additions, 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 or alley.

The rear addition to the existing structure will not unduly affect the light and air available to neighboring properties. The majority of the lots in Square 3118 are exceptionally deep. The Property and both adjacent lots are 144 feet in depth. The homes across the 20 foot alley are also on lots that are 144 feet deep. The addition the Applicant is proposing reduces the Property's rear yard from 99 feet to 79 feet; 59 feet more than the required rear yard depth for a dwelling in the R-4 district. Furthermore, the lot occupancy with the proposed addition will only be 48%, far from the maximum 60% permitted for an apartment house in the R-4. The exceptionally deep lots rear yards ensures that the minor proposed additions will not have an undue affect on the light and air available to neighboring properties.

Likewise, the proposed addition will not unduly compromise the privacy of use and enjoyment of the neighboring properties. As discussed above, there is a considerable amount of space distancing this Property from neighboring properties. As such, the additions will not compromise the privacy of use and enjoyment of their property. Furthermore, the use of the Property will continue to be residential, a permitted use in the R-4.

Lastly, the proposed additions will not visually intrude upon the character, scale or pattern of houses along W Street NW from the front or the rear. W Street NW is 30 feet wide and there is a 20 feet wide alley to the rear of the Property. The Applicant is not changing the front façade or increasing the height of the existing structure. Consequently, the view of the structure from W Street will not change. The Applicant is constructing a rear addition and rear deck; however, the adjacent neighbor, 66 W Street has a large rear deck that extends approximately 20 feet past the brick structure. The Applicant's proposed rear addition is 10 feet and the proposed rear deck is also 10 feet. The addition

the Applicant is proposing will extend approximately the same distance into the rear yard as the adjacent property's deck; thus aligning with the scale and patten of the house along W Street NW from the rear. Importantly, as noted above, the exceptional depth of the lots in this Square ensures that the minor proposed additions will not visually intrude upon the character or scale of homes in this area.

§336.10

Pursuant to §336.10, in demonstrating compliance § 336.9, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways. *See* attached photographs at **Tab E**.

9. §336.11

Pursuant to §336.11, BZA may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block. The developer intends to fully comply with any special treatment the BZA requires.

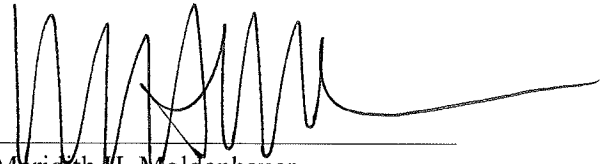
Consequently, for the reasons outlined above, the Applicant has met the requirements for granting special exception relief pursuant to §336.

VI. CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for zoning relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the Application.

Respectfully submitted

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP

A handwritten signature in black ink, consisting of a series of sharp, vertical, wavy strokes followed by a long, horizontal, slightly curved line extending to the right.

Meridith H. Moldenhauer

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