

**BOARD OF ZONING ADJUSTMENT**  
**SPECIAL EXCEPTION APPLICATION**

**APPLICANT'S STATEMENT**

**Bailey Real Estate Holdings, LLC**  
**615 Upshur Street, N.W.; Square 3226, Lot 73**

**I. INTRODUCTION AND NATURE OF RELIEF SOUGHT**

Bailey Real Estate Holdings, LLC (the “Applicant”) is the owner of the property located at 615 Upshur Street, N.W., Square 3226, Lot 73 (the “Property”), which is zoned R-4. The improvements on the Property consist of a two-story, single family row dwelling (the “Building”). The Applicant proposes to construct an addition to the building and a conversion to a three (3) unit apartment building (“the Addition”). Accordingly, the Applicant requests special exception approval pursuant to 11 DCMR §336.

**II. DESCRIPTION OF THE PROPERTY AND THE ADDITION.**

The Property is located at 615 Upshur Street N.W. in the Petworth neighborhood. It is located in the R-4 zone district (see the Zoning Map attached with the Application). Abutting the Property to the west and east are row dwellings. Abutting the Property to the south is Upshur Street. Abutting the Property to the north is a public alley. Photographs of the Property are included separately with this Application.

The Addition will consist of a three-story rear addition to the Building (see the Architectural Plans attached with this Application).

**IV. THE APPLICATION SATISFIES SPECIAL EXCEPTION REQUIREMENTS OF §336.**

A. Overview. Pursuant to §3104.1 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, subject also, in this case, to the specific requirements for relief under §336 of the Zoning Regulations.

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).

**B. Requirements of §3104.1.**

The granting of a special exception in this case “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...” (11 DCMR § 3104.1). Given the nature of the Addition, the Building’s mass and height will be in harmony with the purpose and intent of the Zoning Regulations and Zoning Maps and will neither adversely affect the properties to the east and west, as they are attached to the existing structure, nor the properties to the north and south, as they are separated by an alley and Upshur Street, respectively.

**C. Requirements of §336.**

The proposal in this Application satisfies the requirements of 11 DCMR §336.2 through §336.1, issued under the Zoning Commission’s Notice of Final Rulemaking & Order No. 14-11, as follows:

**Section 336.2** *“The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit under § 3104, subject to §§ 336.3 through 336.11.”*

The proposed addition will be thirty-five feet (35 ft.) in height. The Applicant has submitted photographs of the property and architectural plans along with its Application.

**Section 336.3** *“The fourth (4<sup>th</sup>) 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 proposed addition will increase the number of units from one (1) unit to three (3) units. Therefore Inclusionary Zoning and the set aside requirements of §2603.9 do not apply.

**Section 336.4** *“There must be an existing residential building on the property at the time of filing an application for a building permit.”*

The Property currently contains a single family residential building constructed circa 1917.

**Section 336.5** *“There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit.”*

The proposed structure includes three (3) units, requiring a minimum of 2,700 square feet of land area. The property has 2850 square feet and therefore satisfies that minimum requirement.

**Section 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 addition, including roof structures and penthouses, will not block or impede the function of a chimney or other external vent on the adjacent properties, pursuant to the submitted plans.

**Section 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 Addition will not interfere with the operation of an existing or permitted solar energy system on any adjacent property. To the Applicant's knowledge, there are no such systems on adjacent properties.

**Section 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."*

No roof top architectural elements original to the house such a turret, tower, or dormers will be been removed or significantly altered, pursuant to the submitted plans.

**Section 336.9** *Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:*

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

The light and air available to neighboring properties will not be unduly affected. The Applicant has submitted shadow studies along with its application.

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

The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. The existing structure is already attached to the properties to the east and west. The property to the north is separated by an alley and the property to the south is separated by Upshur Street.

*(c) 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 Addition will not substantially visually intrude upon the character, scale, and pattern of houses along Holbrook Terrace, per the enclosed plans.

**Section 336.10** *"In demonstrating compliance with § 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."*

The Applicant has submitted very detailed plans showing the relationship of the proposed addition to the neighboring properties and the public ways.

**Section 336.11** *"The Board of Zoning Adjustment 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."*

No special treatment is necessary because the addition will maintain ample open space, will be a size and scale appropriate for the site, and will have a design consistent with the neighborhood.

**V. CONCLUSION.**

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

Respectfully submitted,



---

Martin Sullivan  
Sullivan & Barros, LLP  
Date: October 28, 2015