

BOARD OF ZONING ADJUSTMENT
SPECIAL EXCEPTION APPLICATION

APPLICANT'S PREHEARING STATEMENT

Equity Trust Company, IRA
1264 Holbrook Terrace, N.E.; Square 4055, Lot 840

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

Equity Trust Company, IRA (the "Applicant") is the owner of the property located at 1264 Holbrook Terrace, N.E., Square 4055, Lot 840 (the "Property"), which is zoned R-4. The improvements on the Property consist of a single family, two-story semi-detached structure (the "Building"). The Applicant previously proposed to construct an addition to the Building and a conversion to an eight (8) unit apartment house pursuant to 11 DCMR §336. In response to comments from the surrounding neighbors, the Applicant is proposing to subdivide the existing lot into three (3) lots to create row dwellings. Two of the existing lots will include two-unit dwellings constructed as a matter of right (Lots B and C of the revised plans). The Applicant has therefore revised the Application to request special exception approval pursuant to 11 DCMR §336 to construct an addition to and conversion of proposed Lot A into a three (3) unit apartment house. The other two lots will contain matter-of-right structures and uses. Revised plans and shadow studies were filed with the Board on March 9, 2016. A revised Form 135 is being filed with this Statement.

II. 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 row house to the north of the Property, as it is attached to the existing structure, nor the properties to the south (proposed Lots B and C). The Applicant is proposing two (2) parking spaces, which would be one (1) more than what is required.

C. Requirements of §336.

The proposal in this Application satisfies the requirements of 11 DCMR §336.2 through §336.11, 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-two feet (32 ft.) in height. The Applicant submitted revised plans and shadow study on March 9, 2016. These plans were sent to the ANC on or about March 6, 2016. At the ANC meeting on March 8, 2016, the ANC requested more time to review these new plans, which represent the change to three separate row structures; still with a total of seven (7) units, four (4) of which will be matter-of-right.

Section 336.3 *“The fourth (4th) 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.”*

There is an existing structure on the property at the time of filing an application for a building permit.

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 2700 square feet of land. Following a proposed subdivision, the Property will have 2700 square feet of land, therefore satisfying the 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 as a turret, tower, or dormers will be 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, as the Applicant will show with the Plans and Shadow Study submitted with this statement.

(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.

(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. In fact, the plans have been significantly redesigned specifically to address concerns from the neighborhood and the Office of Planning regarding the character of the originally proposed apartment house.

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 way.

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.

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III. **CONCLUSION.**

For the reasons stated above, this application meets the requirements for special exception approval by the Board, and the Applicant looks forward to further presenting its case.

Respectfully submitted,



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Sullivan & Barros, LLP
Date: April 12, 2016