

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

Application of Congressional 815 5th Street LLC
ANC 6C

STATEMENT OF THE APPLICANT

This is the application of Congressional 815 5th Street LLC ("**Applicant**") for a special exception to allow the conversion of a residential structure into a three-unit apartment house. The property that is the subject of this application is 815 5th Street NE (Square 832, Lot 801) (the "**Property**"). The Property is included in the R-4 Zone District. A portion of the District of Columbia Zoning Map is attached, and a Surveyor's plat is attached.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board of Zoning Adjustment ("**BZA**" or "**Board**") approve a special exception under Section 336 to allow the conversion of a pre-1958 residential building into a three-unit apartment house.

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Section 3104.1 of the Zoning Regulations (11 DCMR § 3104.1).

III. DESCRIPTION OF PROPERTY AND SURROUNDING AREA

The Property is located in the Atlas District neighborhood of Ward 6. The Property is rectangular-shaped and contains approximately 2,863 square feet of land area. The Property is bounded to the north by a flat, to the south by a four-unit apartment building, to the west by 5th Street, and to the east by a public alley. The Property is approximately 27 feet wide and exceptionally deep at approximately 105 feet. The Property is improved with a two-story flat

Board of Zoning Adjustment
District of Columbia
CASE NO.19238
EXHIBIT NO.3

constructed circa 1920. A two-story rear addition was constructed sometime thereafter. The building has been abandoned for several years and was not well maintained until the Applicant recently took ownership.

The surrounding area is an eclectic mixture of residential and commercial buildings of varying heights, depths, architectural styles, and building types. To the north and east, properties are mainly flats and small apartment buildings (1-4 units). H Street NE is less than 200 feet to the south. Mixed-use multifamily residential and commercial buildings of varying heights and densities pervade this rapidly developing corridor. Buildings to the south have heights ranging from two to four stories and a range rear yard depths, with many less than the minimum required. To the north and east, building heights range from two to three stories, and rear yards that range from zero to more than the required 20 feet.¹

IV. THE PROPOSED PROJECT

The Applicant proposes to add to and convert the existing pre-1958 residential building into a three-unit apartment house (the “**Project**”), as shown on the plans attached as Exhibit D. Most of the original building will be preserved and enhanced.

The Applicant will renovate the original building and construct another story and a rear addition. The Applicant will remove the existing rear addition and construct new a three-story rear addition in its place. Also, the Applicant will construct a third story addition above the original building to make the entire Project three stories. The new addition will extend back from the original building by approximately 19 feet, resulting in a conforming rear yard, measuring approximately 34 feet (only 20 feet is required). With the addition, the Project will have a maximum conforming height of 34.7 feet, and a maximum conforming lot occupancy of 60%.

¹ The church to the east across the alley, located at 509 I Street NE, does not have a rear yard.

Except for the number of units, the Project will conform to the Zoning Regulations and would otherwise be permitted as a matter-of-right.

V. THE APPLICATION MEETS THE REQUIREMENTS FOR A SPECIAL EXCEPTION FOR CONVERSION OF A RESIDENTIAL BUILDING INTO AN APARTMENT HOUSE

Under Section 336 of the Zoning Regulations, the conversion of a pre-1958 residential building into an apartment house is permitted if approved by the Board as a special exception. Sections 336.2 – 336.11 set forth the special exception criteria that the application must satisfy for the Board to approve such a conversion. As described below, the proposed Project satisfies these criteria.

- A. *The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft)... (Section 336.2)*

The proposed Project will have a maximum height of 34.7 feet.

- B. *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. (Section 336.3)*

This section is not applicable since the Project will contain only three units.

- C. *There must be an existing residential building on the property at the time of filing an application for a building permit. (Section 336.4)*

The Property currently contains a flat constructed circa 1920.

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

The Property has a lot area of 2,863 square feet, but only 2,700 square feet is required for three dwelling units.

- E. Any addition, including a roof structure or penthouse, shall not block or impede the function of a chimney or other external vent on an adjacent property required by any municipal code. (Section 336.6)*

The adjacent buildings do not have any chimneys or vents adjacent to the Property.

Therefore, the proposed addition will not block or impede any chimneys or external vents.

- F. 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. (Section 336.7)*

The adjacent properties do not contain solar panels, and the Applicant is not aware of any permits for solar panels.

- G. 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. (Section 336.8)*

The front façade of the existing building will be retained, but the existing building does not contain any roof top architectural elements.

- H. The light and air available to neighboring properties shall not be unduly affected. (Section 336.9(a))*

The proposed addition will not impede the availability of light and air to neighboring properties because it will conform to the height, lot occupancy, and rear yard allowance and requirements for this zone, which, as a matter of policy, are understood to not unduly affect light and air to neighboring properties. Further, the Project will be consistent with the neighborhood context of varying building sizes and types. In addition, a large 26-foot rear yard behind the addition will be provided, which is greater than is otherwise required in this zone. Therefore, the light and air available to neighboring properties will be affected less or equal to a matter-of-right project on the Property.

I. The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. (Section 336.9(b))

The Project will not unduly compromise the privacy or use and enjoyment of neighboring properties. The addition will not contain any windows on its north elevation to give residents new vantage points to view into the northern-adjacent property. The few windows on the south elevation of the addition will be far to the rear, so they will limit the ability of residents inside the addition to view into the neighboring property to the south. Further, the windows at the rear (east) elevation will not provide a new vantage point view into neighboring properties. The proposed roof deck will be limited to the rear of the new addition and will provide limited new vantage points that are not inconsistent with or larger than any matter-of-right roof deck. Therefore, the Project will not unduly compromise privacy and use and enjoyment of neighboring properties.

J. 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. (Section 336.9(c))

The character, scale, and pattern of houses along the subject street and alley are eclectic and range in terms of style and size. The Project will have a scale (three stories) and style that is contextually appropriate and consistent. Across the street are multiple three-story small apartment houses. The southern-adjacent building is a four-unit apartment house, and another apartment house is located five properties to the north. Buildings on 5th Street range from two to three stories, and across the alley, the buildings range in height from two stories to more than 35 feet in height. The large church building across the alley has a height of greater than 35 feet and no rear yard. The addition's design will be compatible with the existing building, and addition's primary materials will integrate with the existing building and will be in the style of other nearby buildings when viewed from 5th Street or the alley. Therefore, the Project will not visually intrude on the character, scale, and pattern of nearby houses.

- K. 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. (Section 336.10)*

The plans attached as Exhibit D demonstrate the application's compliance with this section.

- L. 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. (Section 336.11)*

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 contextually appropriate for the neighborhood.

- M. The requested relief 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.*

Because the application satisfies the specific criteria set forth in Section 336, the proposed addition and conversion will be harmonious with the general purpose and intent of the Zoning Regulations and Zoning Map and will not adversely affect neighboring property. As a matter of policy, an apartment house of the proposed size is an appropriate use in the R-4 zone, provided that it satisfies certain criteria. Given the surrounding context of the Project, nothing about the proposed size or use contravenes the intent of the Zoning Regulations.

Furthermore, the Project will revitalize a property that has long been a neighborhood nuisance. The existing building had been abandoned for many years. The abandoned property collected garbage and attracted squatters and rodents. The Project will result in an attractive new residential building that will be a substantial benefit to the neighboring properties.

VI. CONCLUSION

For all of the above reasons, the Applicant is entitled to the requested special exception in this case.

Respectfully submitted,
GOULSTON & STORRS, PC



Cary R. Kadlecek