

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

**APPLICANT'S STATEMENT of HJB Properties LLC.**

**1121 Morse Street, N.E.; Square 4070 Lot 138**

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

HJB Properties LLC (the “Applicant”) is the owner of the property located at 1121 Morse Street, N.E., Square 4070, Lot 138 (the “Property”), which is zoned RF-1. The improvements on the Property consist of a two-story, single-family dwelling (the “Building”). The Applicant proposes to construct a third-story addition to the Building and three-story addition at the rear of the Building (the “Addition”) and convert it to a three (3) unit building. The Applicant is also proposing to increase the height of the Building to forty feet (40 ft.). Accordingly, the Applicant requests special exception approval for the conversion pursuant to 11-U DCMR § 320.2 and special exception approval to increase the height of the Building pursuant to 11-E DCMR § 5203.

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

The Property is located at 1121 Morse Street, N.E. and is in the RF-1 zone district. Abutting the Property to the north and south are Morse Street and a public alley, respectively. Abutting the Property to the east, at 1123 Morse Street, N.E. is a three-story, three-unit building with a large rear addition that extends forty-nine feet (49 ft.) past the subject Property. To the east of that property, at 1125 Morse Street, N.E. is another large three-story, three-unit building. To the west of the Property is a row dwelling. The Applicant is proposing to construct a third-story Addition to the Building. The Applicant is also proposing to construct a three-story Addition at the rear of the Building which would extend the Building footprint by forty-nine feet (49 ft.). The proposed project includes two (2) parking spaces.

The Addition will provide a much-needed update to the Property, as it does not currently match the mass and height of the adjacent buildings to the east. The Addition will increase the height to forty feet (40 ft.) making the Building more compatible with the height of the adjacent three-story buildings. Similarly, the Addition at the rear of the Building will bring the Building footprint in line with the rear walls of the adjacent buildings to the east.

**III. THE APPLICATION SATISFIES SPECIAL EXCEPTION REQUIREMENTS OF SUBTITLE U § 320.2 AND SUBTITLE E § 5203.**

A. Overview. Pursuant to 11-X DCMR § 901.2 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 11-U DCMR § 320.2 and 11-E DCMR § 5203 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 Subtitle X § 901.2.

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 in accordance with the Zoning Regulations and Zoning Maps ...” (11-X DCMR § 901.2). 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 not adversely affect the buildings to the east and west of the Property, as the Addition will only increase the existing Building's mass and height to match that of the adjacent buildings to the east. The Addition will not adversely affect the neighbors to the north and south, as they are separated from the Building by Morse Street and a public alley, respectively.

C. Requirements of Subtitle U §320.2.

The proposal in this Application satisfies the requirements of 11 DCMR Subtitle U § 320.2(a) through 320.2(l) as follows:

**Section 320.2(a)** *“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 to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);*

The Applicant is proposing to increase the height of the Building to forty feet (40 ft.). The additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i), as discussed below. The Applicant is requesting special exception relief from this provision, as discussed below. The Applicant has submitted photographs of the Property and architectural plans along with its Application.

**Section 320.2(b)** *The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6;*

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 Subtitle C § 1003.6 do not apply.

**Section 320.2(c)** *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 residential structure on the Property at the time of filing an application for a building permit.

**Section 320.2(d)** *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. The Property has 2,795 square feet of land, therefore satisfying the minimum requirement.

**Section 320.2(e)** *An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property;*

The Addition will not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on the adjacent property to the east. However, the Addition does extend more than ten feet (10 ft.) past the furthest rear wall of the adjacent Property to the west. The Applicant is requesting a waiver from this subsection, as discussed below.

**Section 320.2(f)** *Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;*

The Addition will not block or impede the function of a chimney or other external vent compliance with any District of Columbia municipal code on an adjacent property.

**Section 320.2(g)** *Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system;*

The Addition will not significantly interfere with the operation of an existing solar system of at least 2kW on an adjacent property. To the Applicant's knowledge, there are no such systems on adjacent property.

**Section 320.2(h)** *A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size;*

The Applicant is proposing to alter the front façade to more closely match that of the adjacent properties to the east. The updates include changing the location of the windows, removing the faux-dormer element on the existing roof, and removing the porch. The Applicant is requesting a waiver from this provision.

**Section 320.2(i)** *Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:*

*(1) 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 Addition is intended to match the mass and height of the buildings to the east. The Addition will not extend past the adjacent property to the east. The property to the west currently extends beyond the subject Property, and while the Addition will have some impact on the available light, due to the location of the Addition relative to the sun, the impact will likely be limited to the morning and should be gone by noon.

*(2) 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 Applicant is not proposing to construct any east-facing or west-facing windows on the side of the Addition.

*(3) 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;*

Although the Addition will be not be setback from the front of the Building, it is intended to match the character, scale, and pattern of the adjacent properties to the east and will therefore not substantially visually intrude upon the character, scale, and pattern of houses along Morse Street, N.E.

**Section 320.2(j)** *In demonstrating compliance with Subtitle U § 320.2(i) 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 detailed plans showing the relationship of the proposed Addition to the neighboring properties and the public ways.

**Section 320.2(k)** *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.

**Section 320.2(l)** *The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i)."*

The Applicant is requesting a waiver from both § 320.2(e), which prohibits extending further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property, and from § 320.2(h) which prohibits altering architectural elements original to the house. As discussed above, the Addition is intended to match the design and massing of the adjacent properties to the east. The requested waivers should be granted as they are not in

conflict with Subtitle U § 320.2(i). The extension beyond ten feet (10 ft.) and altering the architectural elements will not impact the light and air available to the neighboring properties. The Building is designed to match the massing of the properties to the east, and the property to the west will likely only experience minimal shadow and only in the morning. The privacy and use of enjoyment shall not be unduly compromised as there are no windows on either side of the rear Addition. The Addition and changes to the façade are intended to match the design and massing of the adjacent properties to the east and are therefore not inconsistent with the character, scale, and pattern of houses along Morse Street, N.E

D. Requirements of Subtitle 11-E DCMR § 5203.

Pursuant to 11-E DCMR § 5203.1, the Board of Zoning Adjustment may grant as a special exception a maximum building height for a principal residential building and any additions thereto of forty feet (40 ft.). The proposal in this application meets the following conditions:

*(a) The building is not on an alley lot;*

The Building is not on an alley lot.

*(b) 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 shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by municipal code.

*(c) 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 shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property.

*(d) 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 Applicant is requesting a waiver from this provision, as discussed above.

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

- (1) The light and air available to neighboring properties shall not be unduly affected;*
- (2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and*
- (3) 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; and*

The Addition will not impact the light and air available to the neighboring properties. The Building is designed to match the massing of the properties to the east, and the property to the west will likely only experience minimal shadow and only in the morning. The privacy and use of enjoyment shall not be unduly compromised as there are no windows on either side of the rear Addition. The Addition and changes to the façade are intended to match the design and massing of the adjacent properties to the east and are therefore not inconsistent with the character, scale, and pattern of houses along Morse Street, N.E

*(f) In demonstrating compliance with Subtitle E § 5203.1(e) 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 Board of Zoning Adjustment may modify or waive not more than two (2) of the requirements specified in Subtitle E §§ 5204.1(a) through (f) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle E § 5204.1(e).*



**IV. 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,

A handwritten signature in black ink that reads "Martin P. Sullivan". The signature is written in a cursive style with a large initial "M".

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Martin Sullivan  
Sullivan & Barros, LLP  
Date: September 20, 2017