

## Burden of Proof Statement

From: Mihai Psederski (Homeowner)

To: Board of Zoning Adjustment, DC Office of Zoning

Subject: Request for Special Exception for 5035 B St SE, Square 5325 Lot 0010

To Whom It May Concern:

Mihai Psederski (Applicant) is hereby requesting a Special Exception pursuant to 11 DCMR Subtitle D Chapter 52 and under the General Special Exception criteria of 11 DCMR Subtitle X, Chapter 9.

The property is a detached single-family house located in the R-3 zone and is being used as the applicant's primary residence. The immediate neighborhood (within 0.2-mile walk) is a mix of apartment complexes, older and newer townhomes, duplexes, older and newer detached houses, churches, a school and a library. The applicant is seeking to replace an existing damaged retaining wall and privacy fence, build an attached garage (due to safety and lack of storage space inside the house) on the East side of the property and a deck on the South side of the property. Per the plans produced by Breslau, LLC and dated 1/2/2018 the proposed attached garage will consume the current side yard of 8 feet.

The applicant seeks relief from the provision in **D-307.2** which states that side yards must be at minimum 8 feet. According to **D-5201.1(b)**, the BZA may approve as special exception relief from the requirements of having a minimum side yard of 8 feet.

According to **D-5201.2**, special exception relief is only applicable to an addition to a building with only one principal dwelling unit or a new or enlarged accessory structure that is accessory to such a building.

The applicant's property meets both of those requirements as it is a single family primary residence with only one dwelling and the request is for a new attached accessory structure to the building.

According to **D-5201.3**, the applicant must demonstrate to the Board that the proposed garage will not substantially adversely affect any abutting or adjacent dwelling.

- (a) Once the garage is built, there will still be 8 feet from the edge to the neighboring property at 5043 B St SE so the light and air to it will not be unduly affected.
- (b) The garage will not invade any neighboring property's privacy of use and enjoyment.
- (c) The addition of the garage will have the same finish as the current building so it will not visually intrude upon the character and pattern of other houses. Furthermore, the two neighboring properties are an older brick detached home and an older brick apartment complex which already look different than the other newer houses on the block.
- (d) Construction plans, elevation drawings and color photographs are included as part of the package in demonstrating compliance with the above paragraphs.

- (e) The addition of the garage will not be more than the 70% maximum lot occupancy. According to Form-135, separately attached, the lot occupancy will be at 36%, still under the 40% required even without an exception.

According to **D-5201.4**, the Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties. The plan is to utilize similar building material and finishes as the original structure so this should be a non-issue; however, the applicant agrees and will consider all of the Board's recommendations.

According to **D-5201.5** this section may not be used to permit the introduction or expansion of a nonconforming use as a special exception. The intended use of the property is still primary residence so this section will be a non-issue.

According to **D-5201.6** this section may not be used to permit the introduction or expansion of nonconforming height or number of stories. The height and number of stories to the current property will not be affected by this project so this section is also not applicable.

According to **X-901.2(a)** the Board is authorized to grant special exceptions if the addition will be in harmony with the general purpose and intent of the Zoning Regulations and Maps.

The applicant's addition will not change the primary use of the building so it will be in harmony with the R-3 regulations and maps.

Also, according to **X-901.2(b)** the Board is authorized to grant special exceptions if this addition will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Maps.

The lot has two neighboring properties. To the West at 5029 B St SE is an apartment complex and to the East at 5043 B St SE is a single family detached house. There will be no effect to the apartment complex at all. There will be a positive effect to the property at 5043 B St SE in the following ways:

1. The current retaining wall and privacy fence are leaning into the neighbor's property. Once applicant receives all permits, the retaining wall and privacy fence will be replaced.
2. Additionally, as a gesture of goodwill, applicant plans to install a privacy fence in the neighbor's back yard to provide some solitude from the parking lot to the East at 5055 B St SE. Many times people are hanging out in that parking lot drinking and smoking and applicant and neighbor desire some insulation from that behavior.

In addition, the following information is provided:

The garage will have the same finish as the main building and the roof will have the same slope and finish as the roof on the main building so the look would not intrude upon the character of the property. Furthermore, there are other properties in the neighborhood that have similar structures already, so this will not be out of the ordinary for the area. For example, the property located at 4928 B St SE (Figure 1), just a two minute walk already has an attached garage that also extends to the outer edge of the property line and merges with their fence.

Based on the explanations, Applicant respectfully requests special exception relief pursuant to **D-5201** and **X-901** to construct an attached garage that does not satisfy the minimum side yard requirement pursuant to **D-307**. The remaining elements of the project (deck, damaged retaining wall and privacy fence) do not require any exceptions.

Copies of this application package will be sent to the ANC and the Office of Planning for their review and comment. In addition, Applicant has already discussed this project with his neighbors and there is no dissent. Considering the support for this project, it is believed that there will be no harm on neighboring properties or negative consequences to neighboring property owners as a result of this new garage.

Thank you for your consideration in this matter.

Respectfully Submitted,

*Mihai Psederski*

Mihai Psederski



Figure 1