

BOARD OF ZONING ADJUSTMENT
SPECIAL EXCEPTION APPLICATION

APPLICANT'S STATEMENT of 1766 Lanier NW LLC

1766 Lanier Place, N.W.; Square 2580 Lot 481

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT

1766 Lanier NW LLC (the "Applicant") is the owner of the property located at 1766 Lanier Place, N.W. (Square 2580, Lot 481) (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 three (3) residential units. Accordingly, the Applicant requests special exception approval for the conversion pursuant to Subtitle U § 320.2. The Applicant is also requesting a waiver from U § 320.2(h) for alterations to an architectural element, as discussed below.

II. DESCRIPTION OF THE PROPERTY AND THE ADDITION.

The Property is located at 1766 Lanier Place, N.W. and is in the RF-1 zone district. Abutting the Property to the east and west are a mixture of single family dwellings and apartment buildings. Abutting the Property to the north and south are Lanier Place and a public alley, respectively. The area is characterized by a variety of residential uses, including single family dwellings, flats, and a mix of medium and large apartment buildings.

The Applicant purchased the Property in August 2015, before Z.C. Case No. 15-09 went into effect.¹ The Property was originally zoned RA-2 (R-5-B under the 1958 Regulations). In October 2015, the Applicant submitted a building permit to convert the Building to six (6) residential units, which is permitted as a matter-of-right in the RA-2 Zone. While the permit application was submitted before the set-down date for Z.C. Case No. 15-09, the permit application was not approved prior to the map amendment taking effect and therefore did not vest. Accordingly, the Property is now subject to the regulations of the RF-1 Zone. Accordingly, the Applicant significantly altered the project, which now includes only three units.

¹ Z.C Case No. 15-09 down-zoned Lanier Heights from R-5-B to R-4 (RA-2 to RF-1 under the 2016 Regulations).

The Applicant is proposing to construct a third-story addition to the Building and a three-story addition at the rear of the Building. The proposed project includes two (2) parking spaces. The proposed Addition does not extend more than ten feet (10 ft.) past the furthest rear walls of both adjoining buildings.

III. THE APPLICATION SATISFIES SPECIAL EXCEPTION REQUIREMENTS OF SUBTITLE U § 320.2.

A. Overview.

Pursuant to Subtitle X § 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 Subtitle U § 320.2 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 DCMR Subtitle X § 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 slightly increase the Building's massing and the Addition will not extend more than ten feet (10 ft.) past the adjacent buildings to the east and west.

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 to thirty-five feet (35 ft.). 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 3,206 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 the adjacent property;*

The Addition will not extend further than ten feet (10 ft.) past the farthest rear wall of any principal residential building on the adjacent properties.

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

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 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 property.

Section 320.2(h) *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 it is proposing to add two dormers to the proposed third story and a new porch.

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 will not extend more than (10 ft.) past the adjacent properties to the east and west.

(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 proposed Addition will not have windows on the east or west facades.

(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;

The conversion and any associated additions, as viewed from the street, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street. The Applicant is proposing a third story addition and a new porch. Many properties on Lanier have porches, including the property to the west of the Building—1768 Lanier Place, N.W. and several properties to the east of the subject building. Further, as demonstrated by the photographs submitted with this Application, this block of Lanier Place is not uniform in character; there are several large apartment buildings on this block, and many of the single-family dwellings are not similar in style. The proposed third story Addition will not impact the varied character of the buildings on this block of Lanier Place, and the Applicant believes that altering the existing roof and façade will produce a superior design.

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 U § 320(h). The Applicant meets the waiver requirements, as the proposed addition is not in conflict with U § 320(i).

Section 320(i) states: *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 will not extend more than ten feet (10 ft.) past the adjacent properties.

(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 proposed addition will not have windows on the east or west facades.

(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;

The conversion and any associated additions, as viewed from the street, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street. The Applicant is proposing a third story addition and a new porch. Many properties on Lanier have porches, including the property to the west of the Building—1768 Lanier Place, N.W. and several properties to the east of the subject building. Further, as demonstrated by the photographs submitted with this Application, this block of Lanier Place is not uniform in character, there are several large apartment buildings on this block, and many of the single-family dwellings are not similar in style. The proposed third story addition will not impact the varied character of the buildings on this block of Lanier Place.

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".

Martin Sullivan
Sullivan & Barros, LLP
Date: February 12, 2018