

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of Muksy LLC

Statement in Support of Special Exception Relief

3645 49th Street, NW (Square 1507, Lot 4)

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

Muksy LLC (the “Applicant”) is the owner of the property located at 3645 49th Street, N.W. (Square 1507, Lot 4) (the “Property”), which is zoned R-1-A. Muksy LLC is owned 100% by Adam Sacks and Arezoo Sacks, the residents of the Property. The improvements on the Property consist of a detached one-family dwelling (the “Building”). The Applicant is proposing to demolish a portion of the existing building which extends into the required rear yard and construct a new two-story addition (the “Addition”) on top of that existing footprint.

The R-1-A Zone requires a minimum rear yard setback of twenty-five feet (25 ft.). The Zoning Regulations (11-B DCMR § 205.3) state that in the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958. The existing building extends into the permitted rear yard; however, we were not able to determine with certainty that the current building footprint was constructed prior to 1958 (*i.e.*, it is not certain that the current rear building line was the rear building line in 1958). Accordingly, the Applicant is requesting special exception relief pursuant to 11-D DCMR § 5201 from the rear yard requirements of 11-D DCMR § 306.1 and the prohibition against altering an existing nonconforming structure of 11-C DCMR § 202.2.

II. SURROUNDING AREA AND PROPOSED PROJECT.

The Property is located at 3645 49th Street, N.W. and is in the R-1-A zone district. Abutting the Property to the south is a detached dwelling. Abutting the Property to the north, south, and east are other detached dwellings. Abutting the Property to the west is 49th Street, NW. The Building was originally constructed in the 1930s. Sometime between the 1930s and 1954, a small rear garage was constructed; between 1954 and the present, a previous owner connected the Building to the garage via a raised enclosed porch and extended the rear footprint

into the required rear yard. Accordingly, the Property has a rear yard of eighteen point eight feet (18.8 ft.), which is six point two feet (6.2 ft.) short of the rear yard requirement. Therefore, the extent of the relief can be defined as this extension of 6.2 feet for two stories. The Building's footprint is not expanding, and all other area zoning requirements are safely met. The rear portion of the Building that extends into the rear yard is essentially an accessory structure, which would be permitted in this location but for its connection to the principal dwelling.

III. THE APPLICATION SATISFIES SPECIAL EXCEPTION REQUIREMENTS OF SUBTITLE X § 901.2, D § 5201.

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 D § 5201 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). The proposed Addition is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, as described herein. There is no expansion of the existing footprint, and the relief needed is for an expansion into the rear yard of just 6.2 feet for a height of only two stories. As proposed, the lot occupancy for the Building will be just 21.5%.

C. Requirements of Subtitle D § 5201.

The proposal in this application satisfies the requirements of Subtitle D § 5201, as follows:

Section 5201.3 *“An Application for special exception under this section shall demonstrate that the addition or accessory structure shall not have a substantially adverse affect on the use of 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;*
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*
- (c) The addition or accessory structure, together with the original building, 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 frontage;*
- (d) In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; and*
- (e) The Board of Zoning adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of fifty percent (50%).*

(a) The Addition does not impact the light and air available to the neighboring properties, as the Addition will not increase the existing Building footprint, and is only two stories high.

(b) The privacy of use and enjoyment of any neighbors will not be unduly compromised by the Addition, as the Addition will not increase the existing Building footprint, and only adds one story to the middle section between the garage and main house.

(c) & (d) The Addition, together with the existing Building, does not visually intrude upon the character, scale, or pattern of houses on 49th Street, N.W., as the Addition is only at the rear of the Building and is not substantially seen from the front street.

(e) The Applicant is not proposing to increase the lot occupancy and will therefore not exceed the fifty percent (50%) lot occupancy requirement for special exception relief in the R-1-

A zone district. The existing Building has a lot occupancy of twenty-one and a half percent (21.5%).

Section 5201.4 *“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 and nearby properties.”*

The Applicant will comply with Board directives for protection of adjacent and nearby properties.

Section 5201.5 *“This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.”*

The Applicant is not requesting to introduce or expand a nonconforming use.

Section 5201.5 *“This section may not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.”*

The Applicant is not requesting to introduce or expand nonconforming height or number of stories.

IV. Conclusion.

For the reasons outlined in this Statement, the Applicant respectfully requests the special exception relief as detailed above.

Respectfully Submitted,



Martin Sullivan

Applicant's Statement
3645 49th Street, NW

Sullivan & Barros, LLP

Date: March 20, 2018