

1201 Staples Street NE

BZA 19757 | Prehearing Statement | 20 June 2018

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Statement of Existing / Intended Use

The property located at 1201 Staples Street NE (Square 4067, Lot 2) is currently owned by 1201 Staples, LLC. The existing use is a church as indicated on certificate of occupancy 1891916 issued on 29 December 1989. The intended use is a three (3) unit multi-family attached row dwelling which is consistent with the purpose and intent of the RF-1 residential flat zone.

Revised Summary of Relief

1201 Staples LLC (the Applicant) is the owner of the property located at 1201 Staples St NW (the Project). As per U § 301.2, an existing non-residential building can be converted to a multi-family dwelling as a matter of right. The number of dwelling units is determined by dividing the lot area (2,832 sf) by 900 sf / unit. Therefore, three (3) units are permitted.

The Applicant is requesting a waiver from 11 DCMR Subtitle U § 301.2 (e) pertaining to rooftop or upper floor addition requirements. This is the only waiver that the Applicant is seeking at this time. In addition, the Applicant is requesting a special exception from the penthouse setback requirements set forth in 11 DCMR Subtitle C § 1500.2 due to a recent interpretation from the Zoning Administrator. The applicant is not seeking relief from any other sections of the zoning regulations at this time.

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Background

The property is located at 1201 Staples Street NE, Lot 2 of Square 4067 in the Trinidad neighborhood. The project is located within the ANC 5D boundary. The property is currently zoned RF-1. The lot width is 34.3' and the depth is 82.5'. The lot area is 2,832 square feet. A building restriction line of ten feet (10') is located along Staples St NE. An additional building restriction line of fifteen (15') is located along Morse St NE.

The property was improved with an existing attached structure, originally constructed in 1912 as a single-family dwelling. The existing structure is two stories plus a cellar. No other structures are located on the property. The existing structure is 19.33' wide and 29.72' deep. A bay projection exists along the south side, facing Morse St NE. The existing lot occupancy is 36%.

The existing structure will be enlarged by both a rear and third floor addition in order to accommodate the additional dwelling units. The proposed rear addition will extend beyond the rear wall of the adjacent property to approximately 9'-11". A third-floor addition will also be constructed over the existing attached structure. A partial roof deck and roof stair access structure shall be accessed via an external stair from the third floor. A parapet wall of less than four (4) feet shall function as guardrail on the north sides. The guardrail along the east, south and west sides shall meet or exceed the penthouse setback requirements.

The existing front porch shall remain, but be reconfigured to accommodate a second story deck. No stairs are proposed from the existing grade to the cellar level. A second bay projection will be created along Morse Street. Areaways are also proposed along the south elevation facing Morse St NE.

Rooftop Architectural Element

As per Subtitle U Section 301.2, the conversion of an existing non-residential building or structure to an apartment house shall be permitted as a matter of right in an RF-1 zone subject to the following conditions. The Applicant is self-certifying that the Project meets all of the following criteria except for paragraph (e).

(a) The building or structure to be converted is in existence on the property at the time of filing an application for a building permit;

Response: The existing building is in existence at the time of application filing. Therefore, the Project is conformance with this section.

(b) The maximum height of any addition to the existing structure shall not exceed thirty-five feet (35 ft.);

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Response: The existing building and proposed addition is no more than 35' high. Therefore, the Project is in conformance with this section.

(c) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;

Response: The existing lot is 2,832 square feet. Dividing the lot area by 900 sf yields a result of 3.14. Therefore, up to three dwelling units shall be permitted as a matter of right and the Project is in conformance with this section.

(d) 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;

Response: As shown on the proposed site plan, the proposed addition is 9'-11" from the rear wall of the adjacent property. Therefore, the Project is in conformance with this section.

(e) A roof top architectural element original to the structure 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. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;

Response: Pursuant to the Subtitle U Section 320.3, the Applicant is seeking a special exception from paragraph (e). The standards for special exception relief are outlined below:

(a) No special exception relief shall be available from the requirements of Subtitle U § 301.2(a);

Response: As indicated above, the Applicant is not seeking relief from Subtitle U § 301.2(a).

(b)(1) 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;

Response: The portion of third floor addition that is located within the proximity of the rooftop structure has a minimal impact on the use, enjoyment, light and air available to the neighboring property as shown in the proposed shadow studies.

(b) (2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and

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Response: The portion of third floor addition that is located within the proximity of the rooftop structure has no impact on the privacy of use and enjoyment of the neighboring properties.

(b) (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;

Response: As shown on the project illustrations, the proposed third floor addition will extend fully over the top of the existing structure. The existing architectural feature will be reconfigured to match the existing conditions at 1123 Staples St NE and 1200 Staples St NE. Enlarging the architectural rooftop feature at the end of each block creates an end condition and is an appropriate urban response to the neighborhood. The effect is that of a "punctuation mark" and simulating the detailing already in place at adjacent properties creates a balanced streetscape condition. Setting the front / northwest mass back from the existing rooftop architectural feature creates an odd condition, that is further exacerbated by the fact the Project is located at the end of a row. As shown in the comparative illustrations, replicating the enlargement of the architectural feature is an appropriate urban and architectural response.

(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;

Response: No functioning chimney or vent is located on the adjacent property at 1203 Staples. Therefore, the Project is in conformance with this section.

(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. For the purposes of this paragraph the following quoted phrases shall have the associated meaning: (1) "Significantly interfere" shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator; and (2) "Existing solar energy system" shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either: (A) Legally permitted, installed, and operating; or (B) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;

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Response: Prior to the application filing, the Applicant first met with the adjacent neighbor at 1203 Staples in February 2018. At that time, no solar panel system was installed at the adjacent property. Furthermore, the neighbor made no mention of the intent to install a solar panel system. At the ANC subcommittee meeting in May 2018, the neighbor indicated that a solar panel system was installed.

Upon review of the permitting records (see attached exhibit), the application to install solar panels at 1203 Staples was first made on 28 March 2018. DC PIVS indicates that permit SOL1800411 for 1203 Staples St NW was issued on 3 May 2018. As indicated by IZIS, the applicant filed the BZA application on 17 April 2018 and the Office of Zoning issued a letter dated 19 April 2018 indicating that the application was officially accepted as complete. Therefore, the Project is in conformance with this section.

The Applicant is committed to being a good neighbor and has offered to relocate solar panels from the neighbor's roof to the Project roof and connect them to the existing solar array at 1203 Staples St NE. The Applicant shall cause an easement to be created that will permit access to the roof of 1201 Staples St NE for the purpose of maintenance. The revised drawings show a potential configuration that would minimize the impact of the matter of right design solution on the adjacent solar array.

(h) An apartment house in an RF-1, RF-2, or RF-3 zone converted from a non-residential building prior to June 26, 2015, shall be considered a conforming use and structure, but shall not be permitted to expand, either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and Subtitle U § 320.3.

Response: The project is currently being used a church (non-residential use). Therefore, the Project is in conformance with this section.

Penthouse Setbacks

The Applicant is also seeking relief from the Subtitle C 1500.2 for a roof access stair structure (penthouse) that this is less than 4' tall but is still required to conform to the setbacks as per Subtitle C § 1502.1 which reads "Except for compliance with the setbacks required by Subtitle C § 1502 and as otherwise noted in this section, a penthouse that is less than four feet (4 ft.) in height above a roof or parapet wall shall not be subject to the requirements of this section." The penthouse structure is used to provide access from the top-level unit to the private roof deck.

Pursuant to Subtitle C 1500.2, "penthouses, screening around unenclosed mechanical equipment, rooftop platforms for swimming pools, roof decks, trellises, and any guard rail on a roof shall be setback from the edge of the roof upon which it is located as follows:

- (a) A distance equal to its height from the front building wall of the roof upon which it is located;*
- (b) A distance equal to its height from the rear building wall of the roof upon which it is located;*

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*(c) A distance equal to its height from the side building wall of the roof upon which it is located if: ...
(2) In the R-1 through R-3 and RF zones, it is on any building not described in Subtitle C § 1502.1(c)(1) that is: (A) Adjacent to a property that has a lower or equal permitted matter- of-right building height...*

As shown on the roof plan, the Project proposes to construct a four-foot (4'-0") parapet along the northeast wall. Immediately behind the parapet wall is a roof access stair / penthouse structure that contains stairs to the roof. The parapet wall shields the penthouse structure from view, rendering the setback requirement moot. Furthermore, the penthouse structure is significantly setback from the front and rear roof edges, as well as the southeast roof edge. The proposed guardrail around the private roof deck and meets the setback requirements.

The Zoning Administrator, in a recent Zoning Determination Letter, has indicated that even penthouse structures that are entirely screened by a parapet, shall adhere to the setback requirements. Pursuant to 1504.1, the Applicant is seeking special exception relief from the side building wall setback requirement. The Applicant has amended the application to include the additional relief and is self-certifying that all other setbacks comply with the zoning regulations.

Pursuant to Subtitle C 1504.1, the Board of Zoning Adjustment is authorized to grant special exceptions to the penthouse setback requirements, based on the following criteria:

(a) The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes; Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

Response: The strict application of this regulation would require the roof structure to be located in the middle of the upper level unit which is wholly unreasonable given that a compliant parapet design would shield / screen the roof structure. Parapets of not more than four (4;) are permitted throughout the RF-1 zone, and granting this special exception would be in harmony with the regulations.

(b) The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;

Response: Locating the roof structure to one side of a narrow roof deck is a better design by improving the roof deck layout options and is adequately shielded without appearing as an extension of the building wall. In addition, the alignment minimizes the appearance from public thoroughfares and alleys.

(c) The relief requested would result in a roof structure that is visually less intrusive;

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Response: By locating the roof structure along the furthest point from the roof edges exposed to public thoroughfares and alleys, as well as screening with a parapet wall, the roof structure is visually less intrusive to maximum extent possible.

(d) Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;

Response: As noted above, the strict application of this regulation would require the roof structure to be in the middle of the upper level unit which impacts the efficiency of the lower floor and is wholly unreasonable given that a compliant parapet design would entirely shield / screen the roof structure.

(e) Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and

Response: As noted above, the Applicant has made every effort to comply with the setbacks for all other features. Furthermore, the structures are screened by proposed parapet wall.

(f) The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

Response: The light and air of adjacent buildings are not materially impaired by the roof structure as the compliant parapet design would entirely shield / screen the roof access stair / structure.

Conclusion

For the reasons stated above, the Applicant has met the burden of proof for both the special exception criteria outlined in Subtitle U 320.3 from the restriction on modifying the architectural rooftop element as set forth in Subtitle U 301.2, as well as the special exception criteria in Subtitle C 1504.1 from the penthouse setback regulations as set forth in Subtitle C 1500.2 (c).

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Revised Community Outreach Statement

The Applicant has met with the adjacent neighbor at 1203 Staples NE (immediate adjacent property to the northeast) on multiple occasions to address any concerns. Furthermore, the Applicant presented the project at the Single Member District meeting on Saturday, 19 May 2018. Immediately after the meeting, the Applicant met with the adjacent neighbor and discussion of relocating some of the solar panels ensued.

The Applicant also presented the project to the full ANC meeting on 12 June 2018. The roof plan presented at the meeting indicated a voluntary configuration that would minimize the impact to the neighboring solar panel array. Regardless, the ANC5D voted in opposition to the project and did not provide specific objections during the meeting.