

**BEFORE THE BOARD
OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA**

**APPLICATION OF
5533-518 9TH STREET NW WASHINGTON LLC
HEARING DATE: JULY 18, 2018**

**BZA APPLICATION NO. 19799
SQUARE 914, LOTS 54 and 55
ANC 6A**

PREHEARING STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This prehearing statement is submitted by 5533-518 9TH STREET NW WASHINGTON LLC (the “Applicant”), in support of its application pursuant to 11-X DCMR § 901.2 for special exception relief in accordance with 11-C DCMR §§ 302.2(a) and 305 to permit two existing primary buildings to be located on a single record lot pursuant to the theoretical lot subdivision regulations on property located in the RF-1 Zone District at 518 9th Street, NE and 816 E Street, NE (Square 914, Lots 54 and 55) (together, the “Site”).

**II.
JURISDICTION OF THE BOARD**

The Board has jurisdiction to grant the requested special exception relief pursuant to 11-X DCMR § 901.2.

**III.
WITNESSES**

Outlines of testimony for the Applicant and its witness were provided in the BZA application and are included in the record at Exhibit 11. A copy of the resume for the Applicant’s expert witness is included in the record at Exhibit 12.

IV. BACKGROUND

The Site consists of Lots 54 and 55 in Square 914. Both lots are generally square in shape, with Lot 54 having approximately 14,243 square feet of land area and Lot 55 having approximately 13,897 square feet of land area, for a total land area of 28,140 square feet for the Site. Lot 55 is located in the southeast corner of Square 914, with E Street, NE to the south and 9th Street, NE to the east. Lot 54 is located directly to the north of Lot 55 in Square 914 with frontage on 9th Street. The Site is otherwise bounded by private property to the north and private property and a portion of a public alley to the west. The Site is zoned RF-1 and is located within the Capitol Hill Historic District.

Lots 54 and 55 are each developed with an existing five-story apartment house with 64 units each. Both buildings were constructed in 1926 and are nonconforming structures as to height and number of stories, and are nonconforming as to their apartment house use. The Applicant proposes to undertake matter-of-right renovations to the buildings and grounds, both inside and out, including new site work and construction of new matter-of-right penthouses. Upon doing so, the Applicant will be required to meet the existing Department of Energy and the Environment (“DOEE”) stormwater management requirements for each lot. However, due to the existing configuration of the buildings and the existing lot sizes, the Applicant is unable to meet the DOEE requirements for each lot separately. Lot 54 cannot satisfy the stormwater management requirements on its own due to an insufficient amount of land area. However, if Lots 54 and 55 are combined into a single record lot, the green roof and bioretention facilities that can be accommodated on Lot 55 would benefit both lots, such that the new record lot would be able to satisfy the DOEE stormwater management requirements.

Thus, in order to facilitate compliance with the DOEE regulations, the Applicant proposes to subdivide the Site into a single record lot and then create two theoretical lots along the existing record lot lines. To do so, the Applicant requests a theoretical lot subdivision pursuant to 11-C DCMR § 305, as an exception to 11-C DCMR § 302.2.

V.
SPECIAL EXCEPTION RELIEF

Pursuant to 11-C DCMR § 302.2, each new primary building must be erected on a separate record lot, except as provided for in the theoretical lot subdivision regulations of 11-C DCMR § 305.1. Accordingly, pursuant to 11-C DCMR § 305.1, the Board may grant, through special exception, a waiver to allow multiple primary buildings on a single record lot provided that the application meets the requirements of 11-C DCMR § 305 and the general special exception criteria of 11-X DCMR, Chapter 9. The number of buildings permitted under the theoretical lot subdivision regulations is not limited, provided that satisfactory evidence is submitted that all the requirements of 11-C DCMR § 305 are met based on a plan of theoretical subdivision where individual theoretical lots serve as boundaries for assessment of compliance with the Zoning Regulations.

The Applicant's initial submission provided a detailed analysis of the general special exception standard of review, the standard of review to permit multiple buildings on a single record lot, and the ways in which the application meets those standards (*see* Ex. 17, pp. 3-7). The Applicant also filed architectural drawings showing the existing buildings on the Site and the proposed matter-of-right improvements (Ex. 14), zoning tabulations in the self-certification form (Ex. 5), and draft subdivision plats showing the two existing record lots and the single proposed record lot (Ex. 9).

VI.
COMMUNITY ENGAGEMENT

The Site is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 6A. The Applicant presented the BZA application and an updated HPRB proposal to the ANC’s Economic Development and Zoning (“EDZ”) Committee on June 20, 2018. At that meeting, the EDZ voted unanimously to recommend approval of the BZA application to the full ANC. The next full ANC 6A public meeting is on July 12, 2018 (after the date of this submission), and the Applicant is scheduled to present at that meeting. The Applicant will provide an update on the ANC’s vote on the application at the public hearing.

VII.
CONCLUSION

For the reasons stated above and in the hearing record, the Applicant has demonstrated that its request for special exception relief to permit two existing primary buildings on a single record lot is in harmony with the purpose and intent of the Zoning Regulations and Zoning Map and meets the test for special exception approval under 11-X DCMR § 901.2 and 11-C DCMR §§ 302.2(a) and 305. Accordingly, the Applicant respectfully requests the Board’s approval of the application.