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4 December 2020 rev4

District of Columbia Office of Zoning
441 4th Street NW
Suite 200-5
Washington DC 20001

RE: BZA Case No. 20329 - 1138 51st St NE Washington DC 20019 Square 5201 / Lot 0809

Burden of Proof Statement

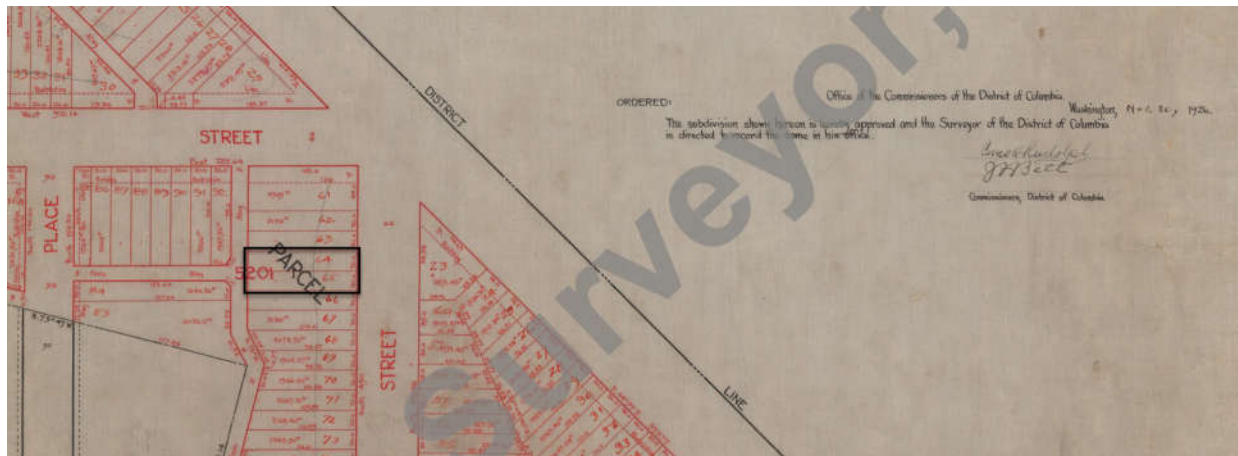
This statement is submitted on behalf of Ekop I. Graham, the applicant and Owner (Owner) of the tax lot (Property) located at 1138 51st Street NE (Square 5201, Lot 0809), in the Deanwood community of the 7th Ward, ANC 7C and is in a R-2 residential zone.

The neighborhood contains detached, townhouses and semi-detached family residences with a one story detached single family home on the south side and a low rise, three (3) story, multifamily apartment building on the north side. The Property faces east onto 51 St NE.



The Owner proposes to subdivide the unimproved, vacant, forty (40) foot wide Tax lot into two (2) twenty foot (20'-0) wide equal Record Lots to construct a semi-detached structure containing a two (2) three (3) story residential dwellings that will be in keeping with the existing neighborhood character.

This current lot is an overlay of the original two (2) lots formed in the original 1926 subdivision as two (2) twenty (20) foot wide Record lots, square 5201, lots 64 and 65.



CHAPTER 3 RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3

300 PURPOSE AND INTENT

300.4 The purpose of the R-2 zone is to:

(a) Provide for areas with semi-detached dwellings; and

300.5 The R-2 zone is intended to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached dwellings.

Subtitle D-13

The Owner has chosen to develop this property as a matter-of-right and is in the process of having the present Tax lot 0809, converted back to the original two (2) Record lots 64 and 65, as discussed and agreed to with the District Office of Planning (OP) and the District Zoning Administrator (ZA).

On Tue, Nov 17, 2020 at 5:20 PM
Jesick, Matthew (OP) <matthew.jesick@dc.gov>
wrote: Mr. Grevious,

I just got off the phone with the Zoning Administrator. He said that you spoke a week or two ago, but it seemed like maybe some wires got crossed. I clarified that your property consists of two record lots (64 and 65) underneath one tax lot (809). In cases such as that, the ZA confirmed, the old record lots can be "resurrected" without any relief from the BZA for lot area or lot width. The only interim step is that you would need to have the Office of Tax and Revenue divide Lot 809 into two tax lots matching exactly the boundaries of Lots 64 and 65. After that was complete, you could proceed with your subdivision application for new record lots matching 64 and 65.

With that clarification, the only BZA relief you would need would be special exception relief, pursuant to Subtitle D Section 5201, for the 5' side yards, as well as driveway slope variance relief (although it was Mr. LeGrant's understanding that you might redesign the project to make the driveway conforming).

I'm cc'ing Mr. LeGrant on this email, and if there's anything I said that was incorrect he can correct me. He said that if you would like something in writing from him confirming all of this, you could prepare a draft letter/email from him to you, which he could use as a basis for a formal email to you confirming the exact zoning relief required. I'm sure his staff could work with you on that process.

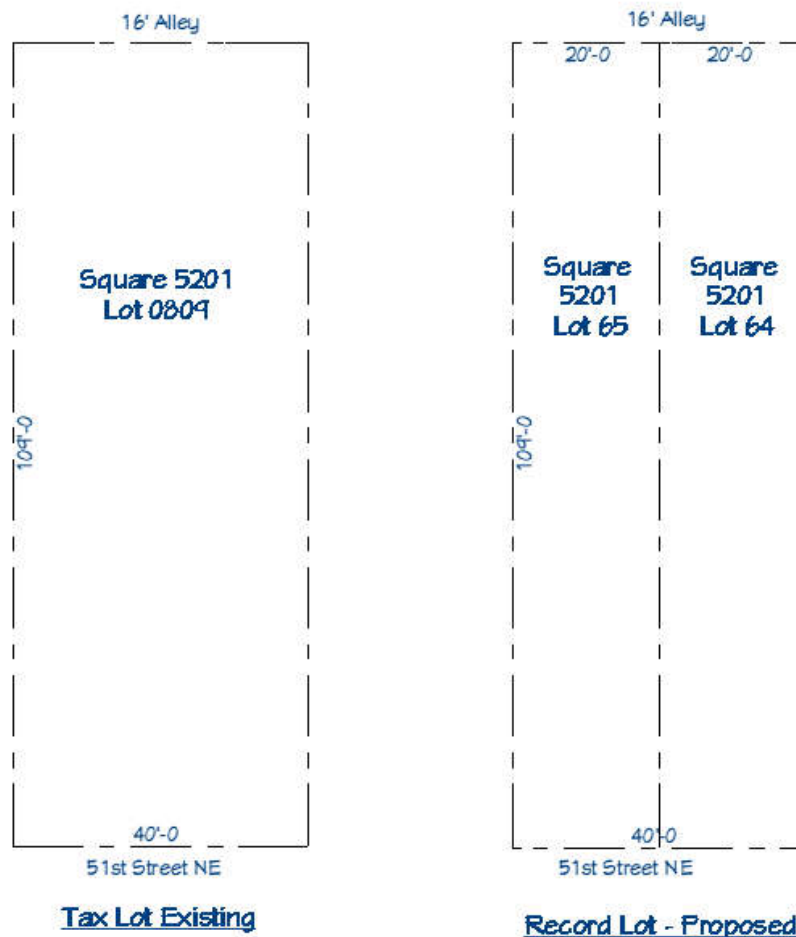
Finally, in light of this information, which I hope is good news, if you intend to modify your BZA application you would need to do that through the Office of Zoning. But if so please

also let me know. If you need more time prior to your hearing, the Office of Zoning can work with you to schedule a new hearing date.

Thanks.
Matt Jesick

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The two (2) converted 1926 Record lots will be grandfathered and will not require a variance.

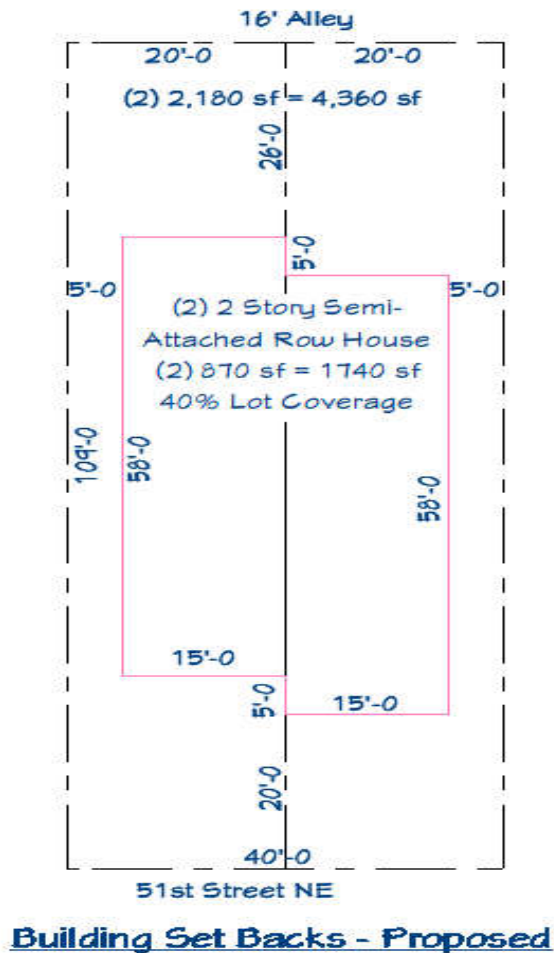


The Owner will be seeking a reduced side yard relief through a Special Exception request from the current 2016 District Zoning Code side yard eight (8) feet setback Subtitle D § 206.3 to allowed a five (5) foot side yard, through the Special Exception as described in Subtitle D § 5201.1, D §5201.4, D §5201.5 and D §5201.6.

206.3 One (1) side yard, a minimum of eight feet (8 ft.) in width, shall be provided for all semi-detached buildings in the R-2 zone.

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 17-23 published at 66 DCR 2337 (February 22, 2019).

The grandfathered converted lots will have a non-conforming lot size two thousand one hundred eighty (2,180) square feet of the required three thousand (3,000) square feet. Subtitle D §206.7 allows for Special Exception's for non-conforming lots.



CHAPTER 52 RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES

5200 GENERAL PROVISIONS

5200.1 The provisions of this chapter provide for special exception relief from the specified development standards and regulations, subject to the provisions of each section and the general special exception criteria at Subtitle X, Chapter 9.

5201.4 An application for special exception relief under this section shall demonstrate that the proposed addition, new principal building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically:

- (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 proposed addition or accessory structure, together with the original building, or the new principal 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 street or alley frontage; and
- (a) The light and air available to neighboring properties shall not be unduly affected;

The combination of the project side yard and the side yard of the adjacent property will be sufficient to not unduly affected and will provide sufficient light and air similar to other properties in the neighborhood.

The house on the south is not as high as the proposed house. The apartment building on the north is taller. The sun's path is from the street, in the morning, across the depth of the project lot to the rear alley in the evening. The east, south and west walls of the project structure and adjoining property, with a combined side yards will receive sun light and free movement of air.

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

The neighboring properties will not be unduly compromised by the proposed semi-detached structure. The property on the south is also a single family residence with similar front, side and rear yard functions. The windows on the sides of the proposed building will not unduly compromise the views of the adjacent residential structures and would be normal views found between residential structures.

- (c) The proposed addition or accessory structure, together with the original building, or the new principal 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 street or alley frontage;

The proposed semi-detached houses will be similar in character, scale and purpose to the existing residential structures on the street and in the neighborhood and will not be visually intrusive but blend into the existing streetscape being of similar character.



5201.5 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.

There will be not need for any special treatment. The proposed residences are similar in use and character to the adjacent single family residence and the apartment building.

5201.6 This section shall not be used to permit the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories as a special exception.

The proposed two (2) unit semi-detached residence and side yard Special Exception conforms with the R-2 zone use, lot occupancy, building height and number of stories.

Please, accept this Burden of Proof Statement as a formal request for a Special Exception for a reduced side yard.

Thanking you for your consideration.

Please advise.

Respectfully,

Andrei T. Banks, RA Agent

