

May 12, 2021

Via JZIS

Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210S
Washington, DC 20001

Re: Supplemental Submission - BZA Case No. 20382 – 308 11th Street, NE

Dear Members of the Board:

At the public hearing on April 14, 2021, the Board of Zoning Adjustment requested a supplemental filing from the Applicant, responding to the following matters:

1. Address and clarify requirement for an area variance;
2. Address and respond to Party Opposition's recent issues and concerns related to discrepancies on the plans related to the building height; and
3. Results of a "flag" test for determining effects of the building height.

The three listed items above are taken from a Memo to File from the Board, following the April 14 hearing; however, the Applicant believes that the actual information desired by the Board is somewhat different from this, based on the hearing transcript, and the Applicant will endeavor to answer any additional items that the Board may have had questions about, in addition to the above-listed items.

1. Address and clarify requirement for an area variance.

In July, 2020, the Zoning Commission adopted Order No. 19-14, which, among other changes, revised the language in Section E-5201.2 so that, arguably, special exception relief for a new or enlarged accessory building is only available when the principal building has only one dwelling unit.¹ Rather than attempt to argue for an area variance, the Applicant has instead altered its plans to reflect the actual current status of the principal building, and also the now-

¹ We use the term "arguably" because the language reads: "...accessory structure to a residential building with one (1) principal dwelling unit...", while the corresponding language for the R zone reads: "...accessory structure to a residential building with *only* one (1) principal dwelling unit...". The language also applies in the RA apartment zone as well. In any event, the Applicant has revised plans to reflect the existing and proposed single-family use.

intended configuration as having only one principal dwelling unit in the principal building, so that the special exception will still apply to this particular request. The Applicant has discussed the situation with the Zoning Administrator, and as directed by him, has filed an amendment to the existing building permit application, and has revised the principal building plans filed with this BZA Application, to reflect both the existing and proposed condition of the principal building as having one residential dwelling unit, the result of which is that the Applicant does not need to amend the application to include any variance request.

2. Address and respond to Party Opposition's recent issues and concerns related to discrepancies on the plans related to the building height.

In response to this and other questions raised by the party opponents in their April 12 submission:

- (a) Opponents claim that the Applicant's submitted Plat is incorrect in showing the proposed accessory building footprint as 3.33 feet from the rear property line. They note that the existing footprint is 5.1 feet from the rear property line. Opponents further claim that this alleged error results in a rear yard measurement of less than twenty feet.

Response: The Applicant's Plat is accurate in that the *proposed* footprint of the accessory building will be 3.33 feet from the rear property line. The error by the Applicant was in presenting a site plan which represented an incorrect location of the footprints of the two *adjoining* accessory buildings in relation to the Applicant's proposed accessory building. The site plan has been corrected to represent the accurate relative locations of the two existing adjoining accessory building footprints and the proposed Applicant's accessory building footprint (see Site Plan, Page C-5, in revised architectural plans being filed as part of this submission). The Plat was accurate, and the compliant rear yard measurement has not changed.

- (b) Opponents note that the Applicant's rear alley elevations had inaccurate height measurements for the two adjoining accessory buildings.

Response: The Applicant agrees and has revised those elevations to reflect the correct heights (see Page A-3 of attached revised Plans). This measurement deviation has no impact on the accuracy of the shadow study, or of the "accuracy of the Applicant's assessment of privacy, light (shade study), and air impacts."

- (c) Opponents note that drawing A-4 does not show an existing areaway at the front of the principal building.

Response: The Applicant has corrected this, and notes that the front areaway of the principal building has no effect on the special exception consideration in this case (see revised Page A-4 in attached Plans).

- (d) Opponents raised various alleged issues with internal floor plans and other aspects of the principal building, which is not being expanded in footprint and for which no relief has been requested.

Response: Internal floor plans and other aspects of the plans for the principal building have no relevance to the evaluation of the affect of the lot occupancy relief for the accessory building.

3. Results of a “flag” test for determining effects of the building height.

The small addition to the third floor of the principal building does not require relief and is not part of this Application. We believe that the only mention of the flag test was by the Applicant, in providing a response to Commissioner Turnbull’s question about the status of the Historic Preservation Review application. The Applicant has been prevented from performing a flag test, due to issues with a stop work order which the Applicant continues to work on resolving. The Applicant and their architect, Jennifer Fowler, have had significant interaction with the Historic Preservation Office in designing this proposal.

In addition to the revised architectural plans being filed with this submission, we are submitted a revised Plat and Shadow Study. The only change on the Plat is the addition of the signature and stamp of Jennifer Fowler, as required. The Shadow Study was revised to reflect the corrected relative positions of the adjacent accessory buildings.

Respectfully Submitted,

Martin P Sullivan

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CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2021, an electronic copy of this Supplemental Submission was served on the following on behalf of the Applicant, Haider Haimus and Jessica Bachay.

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