

BOARD OF ZONING ADJUSTMENT

Prehearing Statement of Datis Properties LLC

1819 A Street, SE (Square 1111, Lot 96).

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

This Statement is submitted on behalf of Datis Properties LLC (the “**Applicant**”), owner of the property located at 1819 A Street, SE (Square 1111, Lot 96) (the “**Subject Property**”). The Subject Property is improved with a two-story, single-family row building (the “**Building**”).

The Applicant is proposing to construct a third-story addition on top of the existing two-story portion of the Building. The addition will cantilever an additional five feet (5 ft.) over the existing two-story Building (the “**Addition**”). The Applicant is also proposing to convert the Building to three (3) residential dwelling units (the “**Project**”). Accordingly, the following relief is required:

1. Special exception relief pursuant to U § 320.2 for the conversion.
2. Special exception relief from E § 205.4 (the “ten-foot rule”) pursuant to E § 5201. The rear wall of the proposed third-story addition will extend nineteen and a half feet (19.5 ft.) past the furthest rear wall of the only adjoining property, to the east.
3. Special exception relief from E § 206.1 pursuant to E § 5207, as the third floor is not set back three feet (3 ft.) from an existing cornice at the front of the Building.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief requested pursuant to Subtitle X § 901, U § 320.2, E § 5201 and E § 5207.

III. BACKGROUND.

A. Description of the Subject Property and Surrounding Area.

The Subject Property is located at 1819 A Street, SE and is in the RF-1 zone district. It is a long, rectangular lot measuring 3,020 square feet of land area. Abutting the Property to the north is A Street, SE. Abutting the Subject Property to the south is a public alley. Abutting the Subject Property to the west is a public alley. Across the alley, to the west, is a relatively large apartment building with eleven (11) units. Abutting the Subject Property to the east is a row building used as a single-family dwelling. The Stadium Armory Metro Station is located one-half block to the east of the Subject Property. The area is characterized by row buildings, a number of which have been converted to multi-family residential uses, as well as some institutional and federal buildings.

B. Proposed Project.

The existing Building is two-stories with a cellar level. The rear wall of both stories and the cellar currently extends fourteen and a half feet (14.5 ft.) past the rear wall of the only adjoining Building (to the east). The Applicant is proposing to construct a third story Addition on top of the existing two-story portion of the Building which will cantilever over the existing two-story footprint and extend nineteen and a half feet (19.5 ft.) past the adjacent property to the east. The project proposes a lot occupancy limited to 48.69%, a large rear yard of approximately 60 feet and four (4) parking spaces, where only two (2) spaces are required. Regarding the unit mix, the Applicant is proposing two (2), 3-bedroom units and one (1), 2-bedroom unit.

IV. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF.

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 U § 320.2 and E §§ 5201, 5207 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. General Special Exception 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).

1. Special Exception Relief will be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps.

The granting of relief will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The Subject Property is located in the RF-1 zone; the RF zones “are distinguished by a maximum number of principal dwelling units per lot of either two (2), three (3), or four (4) units.” (E § 100.4). The Zoning Regulations permit the conversion of a single-family dwelling to three (3) units via special exceptions. Therefore, the proposed use was contemplated by the Zoning Commission and enumerated in the 2016 Zoning Regulations. Accordingly, the proposed Addition and use will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

2. Relief will not tend to affect adversely, the Use of Neighboring Property in accordance with the Zoning Regulations and Zoning Maps.

As described more fully below, the Addition will also not adversely affect the use of neighboring properties as the proposal meets all other development standards of the RF-1 zone, is providing a lower than permitted lot occupancy, more parking than necessary, a large rear

yard, and safely meets the special exception criteria.

C. Requirements of Subtitle U § 320.2.

In order to have three (3) principal dwelling units on the Subject Property, the Applicant must request special exception relief pursuant to U § 320.2. The proposal in this Application satisfies the requirements of 11 DCMR Subtitle U § 320.2(a) through 320.2(c) as follows:

Section 320.2(a): The building to be converted or expanded is in existence on the property at the time the Department of Consumer and Regulatory Affairs accepts as complete the building permit application for the conversion or expansion;

The building to be expanded is in existence on the Property and will be in existence on the property at the time the Department of Consumer and Regulatory Affairs accepts as complete the building permit application for the conversion or expansion.

Section 320.2(b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6; and

The Applicant is only proposing three (3) dwelling units; therefore, this section does not apply.

Section 320.2(c) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per each existing and new dwelling unit.

There is a minimum of nine hundred square feet (900 sq. ft.) of land area per each existing and new dwelling unit. The Applicant is proposing a total of three (3) residential dwelling units, which requires 2,700 square feet of land area. The Subject Property has 3,020 square feet of land area.

D. The Application Meets the Specific Requirements of E § 5201.

The proposed third floor will extend nineteen and a half feet (19.5 ft.) past the rear wall of the adjoining property. Accordingly, the Applicant is requesting relief from the ten-foot rule (E § 205.4-5). The Application meets the requirements of E § 5201 as follows:

5201.4(a) The light and air available to neighboring properties shall not be unduly affected;

The Applicant has provided shadow studies with this submission. The studies demonstrate that there is a minimal amount of additional shadow at 9 am and 4pm during the summer hours, but that shade is gone within 2-3 hours. There is no additional shadow during the fall and spring. And then there is some additional shadow at 9am (only on roof of adjacent property) and 4pm during winter solstice. Again, that shadow is gone within 2-3 hours. The shadow does not rise to the level of “undue.”

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

The privacy and use of enjoyment shall not be compromised as the proposed Addition will not have any windows facing the neighboring building to the east and is separated by an alley from the building to the west. There is only one new window within the area needing relief (past 10 ft.). The balconies and staircases are permitted as a matter-of-right, as the two-story portion of the addition already exists; therefore the difference in privacy between a matter-of-right addition and the proposed addition is the single window facing west.

(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

The area is characterized by two-story and three-story dwellings, as demonstrated by photographs of the surrounding area (Ex. 5, pp. 4, 11). The adjacent property to the west (1815 A) already extends much further than both the existing building and proposed addition (see Ex. 5, pp.

7-12). This particular section of relief from the ten foot rule considers the view from the alley. The Applicant is not proposing to increase the existing first and second stories, only to cantilever the proposed Addition over the existing building which will result in a limited increase in length—only five feet (5 ft.) longer than the existing Building footprint. The Applicant is still providing a large rear yard of 60 feet. Accordingly, the proposed Addition, together with the original Building, as viewed from alleys, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the alleys.

(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.

The Applicant has included materials sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways.

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.

The Applicant will comply with any special treatment.

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 Applicant is not proposing to introduce the expansion of a nonconforming use, lot occupancy beyond what is permitted in this section, height, or number of stories, as a special exception.

E. The Application Meets the Specific Requirements of E § 5207.

While not explicitly stated in the Zoning Regulations, the Zoning Administrator's guidance on architectural elements includes the "three-foot rule" which requires that the addition of a floor

behind the element is required to be set back at least three feet from the rooftop architectural element to preserve its architectural integrity. The Building has an existing cornice, which is being maintained, but the proposed third floor is not set back three feet from the front of the Building, where the cornice is located. Accordingly, the Applicant is requesting relief from E § 206.1 pursuant to E § 5207. The Application meets the requirements of E § 5207 as follows:

5201.4(a) The light and air available to neighboring properties shall not be unduly affected;

The Applicant has provided shadow studies with this submission, although those relate to the ten-foot rule relief. Regarding the relief from the three-foot setback, not providing a three-foot setback from the front of the building will not have any impact on light and air available to the only adjoining property to the east. Even if any shadow were created it would be extremely minimal and be limited to the building's roof or porch roof.

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

The privacy and use of enjoyment shall not be compromised as the proposed Addition will not have any windows facing the neighboring building to the east. The Applicant is proposing new windows facing west, but none of those windows would be eliminated if the relief were not granted. Accordingly, there is no difference in privacy and use of enjoyment of neighboring properties between a matter-of-right addition with a three-foot (3 ft.) setback and the proposed addition without a three foot (3 ft.) setback.

(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

This particular section of relief from the architectural elements provision considers the view from the street. The buildings in the surrounding area have a mix of different styles and patterns, as

demonstrated by the photographs in Exhibit 5. Some have mansard roofs, some are larger apartment buildings, some have additions that do not maintain the original form of their respective buildings. The proposed Addition is maintaining the rectilinear shape of the existing building and therefore maintaining the pattern of houses on the block by not substantially changing the building form. Moreover, the window pattern is being maintained as much as possible on the third story (although one window had to be eliminated due to building code restrictions as there is a bathroom on the east side of the building in that location). And finally, the cornice that is the subject of the relief, as well as the existing façade and porch, are all being maintained. The lack of a setback does not detract from that existing character; accordingly, the proposed addition does not substantially visually intrude upon the character, scale, or pattern of houses along A Street.

V. **CONCLUSION.**

For the reasons stated above, this Application meets the requirements for special exception relief by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,

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Date: March 24, 2021

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