

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Request for a Modification with Hearing and Time Extension to BZA Order No. 20507

Applicant's Statement of Solid Brick Ventures LLC
Hawaii and Webster Properties (Square 3674, Lots 2-7)

I. INTRODUCTION AND OVERVIEW.

This Statement is submitted on behalf of Solid Brick Ventures LLC (the “**Applicant**”), the owner of the properties located at 65-85 Hawaii Avenue, NE (Square 3674, Lots 2-7) (the “**Properties**”). The Properties are located in the RA-1 zone district and each lot is improved with an existing apartment building with 8 residential dwelling units. In BZA Case No. 20507, the Board of Zoning Adjustment granted special exception approval to the original owner for 11 lots. The proposal was to enlarge each existing building and increase the number of units. After the hearing, the original owner sold the properties to different owners. For example, 89 Hawaii and 93 Hawaii were sold to a separate owner and in BZA Case No. 20507A and 20507B, the Board granted modifications to those projects. Those lots are NOT included in this modification and are separately owned.¹ The lots included with this process are **in bold** in the chart below, which more clearly details the properties and changes:

Address	Existing/Original Condition	Case No. 20507	20507A	20507B	20507C (Subject Modification)
65 Hawaii	8 Units	9 Units	Not Included	Not Included	16 Units
69 Hawaii	8 Units	9 Units	Not Included	Not Included	16 Units
73 Hawaii	8 Units	9 Units	Not Included	Not Included	16 Units
77 Hawaii	8 Units	9 Units	Not Included	Not Included	16 Units
81 Hawaii	8 Units	9 Units	Not Included	Not Included	16 Units
85 Hawaii	8 Units	9 Units	Not Included	Not Included	16 Units
89 Hawaii	8 Units	16 Units	11 Units	14 Units	Not Included
93 Hawaii	8 Units	16 Units	11 Units	14 Units	Not Included
97 Hawaii	8 Units	16 Units	Not Included	Not Included	Not Included
66 Webster	8 Units	16 Units	Not Included	Not Included	Not Included
98 Webster	8 Units	16 Units	Not Included	Not Included	Not Included

¹ Each owner understand that it is responsible to meet an overall IZ requirement. The simplest way to ensure IZ is met is to make sure each individual building is meeting a 10% set aside requirement and therefore satisfying the overall 10% requirement for the 11 units as a whole, since they were in common ownership and approved together.

The modification requires approval under U-421 (new apartment developments). Accordingly, the Applicant is seeking a modification with hearing and review under U-421 in order to increase the number of units within the same building envelope approved in the original case. The Summary Order was issued on May 24, 2023, and became effective ten days later on June 3, 2023. Therefore, the Order is set to expire on June 3, 2025. The Applicant requests the extension from Y-702 pursuant to Y-705.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the Modification with Hearing pursuant to Subtitle Y § 704, a time extension pursuant to Subtitle Y § 705, and special exception approval requested pursuant to Subtitle X § 901 and U § 421.

III. BACKGROUND.

A. Description of the Subject Property and Surrounding Area.

The Properties are zoned RA-1 and are interior lots. The Properties 65-77 Hawaii (lots 2-5) have 4,710 square feet of land area, 81 Hawaii (Lot 6) has 4,749 square feet of land area, and 85 Hawaii (Lot 7), has 4,958 square feet of land area. They are not located in any Historic District. To the north of the Properties is Hawaii Avenue, NE. To the south of the Properties is a public alley. To the west of the Properties is a multi-family apartment building (61 Hawaii Avenue, NE). To the east of the Properties is a multi-family apartment building (89 Hawaii Avenue, NE). The immediate surrounding area is characterized by a mix of residential uses with larger residential apartment buildings and some single-family homes. The larger area, made up of Fort Totten, Pleasant Hill, and University Heights, is characterized by institutional uses, such as the Armed Forces Retirement Home, and Catholic University. Fort Totten Park is located to the north of the Properties and is about a 2–3-minute walk.

B. Description of the Proposed Project.

As described above, the BZA approved each building to have three full stories, a penthouse, and 9 units. Other than a reduction in the original penthouse, the Applicant is not proposing any changes to the building envelope, only to increase the number of units. The respective Self-Certification forms include the ‘approved’ dimensions, as well as the original/existing, for comparison. The penthouse will be reduced in size from what was originally approved. The interior changes to the third floor meant that the Applicant could not maintain its original design.

Therefore, the penthouse was redesigned to comply with the current regulations (and interpretations) which limit habitable penthouse use for this zone to access and ancillary space only. As shown on the plans, the penthouses are now limited to stair access, are only eight feet in height, and are appropriately set back from all sides.

As shown on sheet BZA03, the proposal is for 16 one-bedroom units of about equal size. Two of the 16 units will be designated as IZ units, satisfying the requirements. There are five parking spaces proposed where there were none for the existing eight units. There is also a bike storage room proposed in the cellar for the five required bicycle parking spaces. As shown on the plat, (and approved originally) there continues to be screened trash and fencing around the perimeter, as well as a roll up gate along the alley to screen the vehicle parking spaces.

IV. THE APPLICATION SATISFIES SPECIAL EXCEPTION REQUIREMENTS OF SUBTITLE X-901.2 AND U-421.

As part of the modification, the Applicant is providing an analysis of why the proposal still meets the requirements for a development under U-421.

A. Special Exception Criteria

i. General Special Exception Standards

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.

ii. Standard for Review

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). In this case, the Applicant is seeking relief from U-421 and asserts it meets the prerequisites for approval as it satisfies the relevant respective zoning requirements.

B. The Application satisfies the General Special Exception Criteria of Subtitle X-901.2.

The granting of the special exception will be in harmony with the general purpose and intent of the zoning regulations. The RA-1 Zone provides for areas predominately developed with low to moderate-density development, including multi-family residential buildings. The area is made up of a mix of multi-family residential developments and single-family dwellings uses and the proposal is for six 16-unit residential buildings—instead of six, 8-unit buildings (existing) or six 9-unit buildings (approved originally) for a net increase of 48 units (from what exists), or 42 units (from what was originally proposed). The approved building envelope is not changing, only the number of units.

As the Applicant is able to provide a comfortable number of units within the same building footprint, the granting of the special exception will not tend to adversely affect the use of neighboring properties. The surrounding area is characterized by residential uses with larger apartment and condo buildings with ample access to infrastructure and recreation. These are long-standing apartment uses in need of renovation.

C. The Application satisfies the Specific Requirements of U § 421.

New residential developments in the RA-1 zone require special exception approval pursuant to U-421. The Zoning Administrator’s interpretation of what constitutes a “new residential development” under U-421 includes the conversion of single-family homes to apartment buildings. Accordingly, the Project requires special exception approval pursuant to Section U-421 of the D.C. Zoning Regulation:

Section 421.2: The Board of Zoning Adjustment shall refer the application to the relevant District of Columbia agencies for comment and recommendation as to the adequacy of the following:

(a) Existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project; and

It is expected that the Office of the State Superintendent of Education will not have an issue as this is an overall increase in the number of units originally approved in each building.

(b) Public streets, recreation, and other services to accommodate the residents that can be expected to reside in the project.

Hawaii Avenue intersects with North Capitol Street about 600 feet north of the Properties. North Capitol Street is a major transportation corridor in the District. Fort Totten Park is a 2 to 3-minute walk from the Properties and the Fort Totten Metro station is only a fifteen-minute walk.

Accordingly, as determined in the previous case, residents should be adequately served by the surrounding public streets, recreation, and other services in the area (such as public transportation).

Section 421.3: The Board of Zoning Adjustment shall refer the application to the Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the surrounding neighborhood, and the relationship of the proposed project to public plans and projects.

The Applicant has provided—or will provide as requested by the Office of Planning—sufficient information for the Office of Planning to comment and make recommendations on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the surrounding neighborhood, and the relationship of the proposed project to public plans and projects.

Section 421.4: In addition to other filing requirements, the developer shall submit to the Board of Zoning Adjustment with the application a site plan and set of typical floor plans and elevations, grading plan (existing and final), landscaping plan, and plans for all new rights-of-way and easements.

Referenced plans are included.

D. Time Extension

The Board may grant a time extension request pursuant to Subtitle Y § 705.

Subtitle Y-705.2: The Board may extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval; provided, that the Board determines that the following requirements are met:

- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;

The Applicant will serve all parties to the Application.

- (b) There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board's justification for approving the original application; and

(c) The applicant demonstrates that there is good cause for such extension, with substantial evidence of one (1) or more of the following criteria:

- 1. An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control;**
- 2. An inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or**
- 3. The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.**

The Original order expires on May 24, 2025. The changes are being proposed by the contract purchaser. The new owner/contract purchaser will be unable to secure the required governmental agency approvals prior to the expiration date of the Board's order. Accordingly, the Applicant seeks a time extension of two years for the Original Application.

V. CONCLUSION.

For the reasons stated above, this Application meets the requirements for a modification with hearing and time extension and the request continues to comply with the original special exception approval by the Board.

Respectfully submitted,

Alexandra Wilson

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