

DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

Prehearing Statement of Ontario, LLC

2240 Ontario Rd, NW (Square 2562, Record Lot 85)

I. INTRODUCTION.

This Statement is submitted on behalf of Ontario LLC (the “**Applicant**”), owner of the property located at 2240 Ontario Rd, NW (Square 2562, Record Lot 85) (the “**Subject Property**”). The Subject Property, located in the RA-2 zone district, is improved with an existing, two-story, one-family row building (the “**Building**”). The Applicant will be constructing an addition to sixty percent (60%) lot occupancy and converting to eight (8) units as a matter-of-right, and is seeking special exception lot occupancy relief of five percent (5%) to add decks to the rear of the Building on the second and third stories, and relief from the parking length requirements to provide two (2) parking spaces accessible from the public alley at the rear of the property (the “**Decks**” or the “**Project**”).

Pursuant to F § 304.1, the maximum allowed lot occupancy in the RA-2 Zone District is sixty percent (60%). The Building, not counting the proposed decks, will have a lot occupancy of sixty percent (60%), and the proposed rear Decks at the second and third story will add an additional five percent (5%) of lot occupancy for a total proposed lot occupancy on those two levels of sixty-five percent (65%). Pursuant to C § 712.3, no parking space, required or not, shall have a length less than that of the full-sized dimension specified in C § 712.5 if the parking space is directly accessible from a public alley that is fifteen (15) feet or less in width. The Project will provide two (2) compact-sized parking spaces directly accessible from the ten (10) foot wide public alley. Accordingly, the Applicant is requesting special exception relief from the maximum lot occupancy requirements of F § 304.1 pursuant to F § 5201, and from the parking space length requirements of C § 712.3 pursuant to C § 712.11 in order to be able to provide two parking spaces.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception approval requested pursuant to Subtitle F § 5201 from the requirements of F § 304.1, and pursuant to C § 712.11 from the requirements of C § 712.3.

III. BACKGROUND.

A. Description of the Subject Property and Surrounding Area.

The Subject Property is located in the RA-2 Zone District. It is an interior lot measuring 2,048 square feet. The Subject Property is improved with a two-story plus cellar, single-family row building. Abutting the Subject Property to the north is a three-unit apartment building. Abutting the Subject Property to the south is a single-family row building. Abutting the Subject Property to the east is Ontario Road, NW. Abutting the Subject Property to the west is a 10-foot-wide public alley. The area is characterized by a mixture of residential uses, such as apartment buildings, condominiums, and single-family dwellings; along with institutional and government uses including schools and an electric substation of the Potomac Electric Power Company (PEPCO). The Subject Property is also a seven-minute walk from Meridian Hill Park and the 16th Street Corridor. Several buildings in the area have similar decks to what the Applicant is proposing as shown in the “Photographs” included with this Application.

B. Proposed Project and Requested Relief.

The Applicant is proposing to add rear decks with an additional lot occupancy of five percent (5%). The Applicant is also proposing to increase the current one (1) parking space to two (2) compact parking spaces behind a single roll-up door, accessed from the ten (10) foot wide public alley.

The three stories of the Building itself will have a lot occupancy of sixty percent (60%). With the proposed decks, the lot occupancy of the second and third stories will be sixty-five percent (65%).

The Project meets all other development standards for the RA-2 Zone District, including height, rear yard, and FAR. Accordingly, the Applicant is only requesting special exception relief to construct the Decks.

I. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION APPROVAL.

A. Overview.

Pursuant to 11-X DCMR § 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 approval pursuant to 11-F DCMR § 5201 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 11-X DCMR § 901.2.

The Applicant is requesting special exception approval pursuant to F § 5201 in order to add five percent (5%) of lot occupancy to construct the Decks on the second and third stories, and pursuant to C § 712.11 in order to provide two (2) compact parking spaces with direct access from the ten (10) foot wide public alley. In order to obtain this approval, an Applicant must meet the general special exception requirements of 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. Project will be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps.

The Project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The Subject Property is located in the RA-2 Zone which “provides for areas developed with predominantly moderate density residential.” (F § 300.2) The Zoning Regulations specifically permit special exception relief from the maximum lot occupancy requirements.

Accordingly, the proposed Project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

2. Project 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 Decks will not impact the light and air or privacy of the neighboring properties. The Decks will also not adversely affect the use of neighboring properties as residential. Providing two (2) compact parking spaces at the rear of the Subject Property will not adversely affect neighboring properties and will benefit neighboring properties by providing additional off-street parking to the residents of the Subject Property. Moreover, eight (8) residential units are permitted as a matter-of-right in the RA-2 Zone.

C. Requirements of 11-F DCMR § 5201.

The proposal in this Application satisfies the requirements of 11-F DCMR § 5201, as follows:

Section 5201.1: For an addition to a principal residential building on a non-alley lot or for a new principal residential building on a substandard non-alley record lot as described by Subtitle C § 301.1, the Board of Zoning Adjustment may grant relief from the following development standards of this subtitle as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9.

The Applicant is proposing an addition to a principal residential building on a non-alley lot. Accordingly, the Applicant is permitted to request relief from the maximum lot occupancy requirements pursuant to F § 5201.1(a).

Section 5201.4: An application for special exception relief under this section shall demonstrate that the proposed addition, new 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 compromised;

The proposed rear Decks will still allow light and air through to the adjacent properties. The Applicant is still maintaining a twenty-four foot (24.7 ft.) rear yard and a building height of forty-four feet, five inches (44' 5"). The Applicant has included a Shadow Study as part of this application (See Plan pp. 13-20) to reflect that the additional shadow from the Decks is minimal. Accordingly, the light and air available to the neighboring properties shall not be unduly compromised by the proposed Decks.

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

The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. The Applicant is proposing decks at the rear of the Building. However, as shown in the Photographs included with this Application, there are similar existing decks at 2242, 2244, and 2246 Ontario Road, NW and the rear of the Property abuts a public alley, not the rear yard of another property. Across the public alley from the Subject Property is the Marie Reed Health Center (2155 Champlain Street, NW), which is a commercial use building. Therefore, the proposed Decks will not unduly compromise the existing privacy of use and enjoyment of neighboring properties.

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

The proposed Decks, together with the original Building, as viewed from the street, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street. The

proposed rear Decks will not be visible from Ontario Road, NW. The Decks will be visible from the public alley. However, as previously mentioned, there are similar existing additions and rear decks at 2242, 2244, and 2246 Ontario Road, NW. Therefore, the Project will not visually intrude upon the character, scale, or pattern as viewed from the alley.

(d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such 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 provided plans, photographs, elevations, and section drawings sufficient to represent the relationship between the proposed Addition to adjacent buildings and views from public ways.

Section 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 if the Board of Zoning Adjustment requires 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.

Section 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 or expand a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories, as a special exception.

D. Requirements of 11-C DCMR § 712.11.

The proposal in this Application satisfies the requirements of 11-C DCMR § 712.11, as follows:

Section 712.11: The Board of Zoning Adjustment may grant relief from the requirements of Subtitle C §§ 712.3, 712.5, and 712.6 as a special exception under Subtitle X, Chapter 9 and subject to the following:

The Applicant is proposing to provide two (2) compact parking spaces, directly accessible from a ten (10) foot-wide public alley. Accordingly, the Applicant is permitted to request relief from the parking space length requirements of C § 712.3(f) pursuant to C § 712.11.

(a) The Office of Zoning shall refer any request under this subsection to the Office of Planning and the District Department of Transportation for review and comment;

(b) For a request for relief from the ratio requirement of Subtitle C § 712.3 the applicant shall demonstrate to the Board's satisfaction a reasonable difficulty in providing the number of full-sized parking spaces;

This section is not relevant to the requested relief.

(c) A request for relief from the dimensional requirements for drive aisles of Subtitle C §§ 712.5 and 712.6 shall be accompanied by vehicle movement and turning diagrams demonstrating to the Board's satisfaction that vehicles of average dimensions would be able to safely and efficiently access the parking spaces affected by such relief;

This section is not relevant to the requested relief.

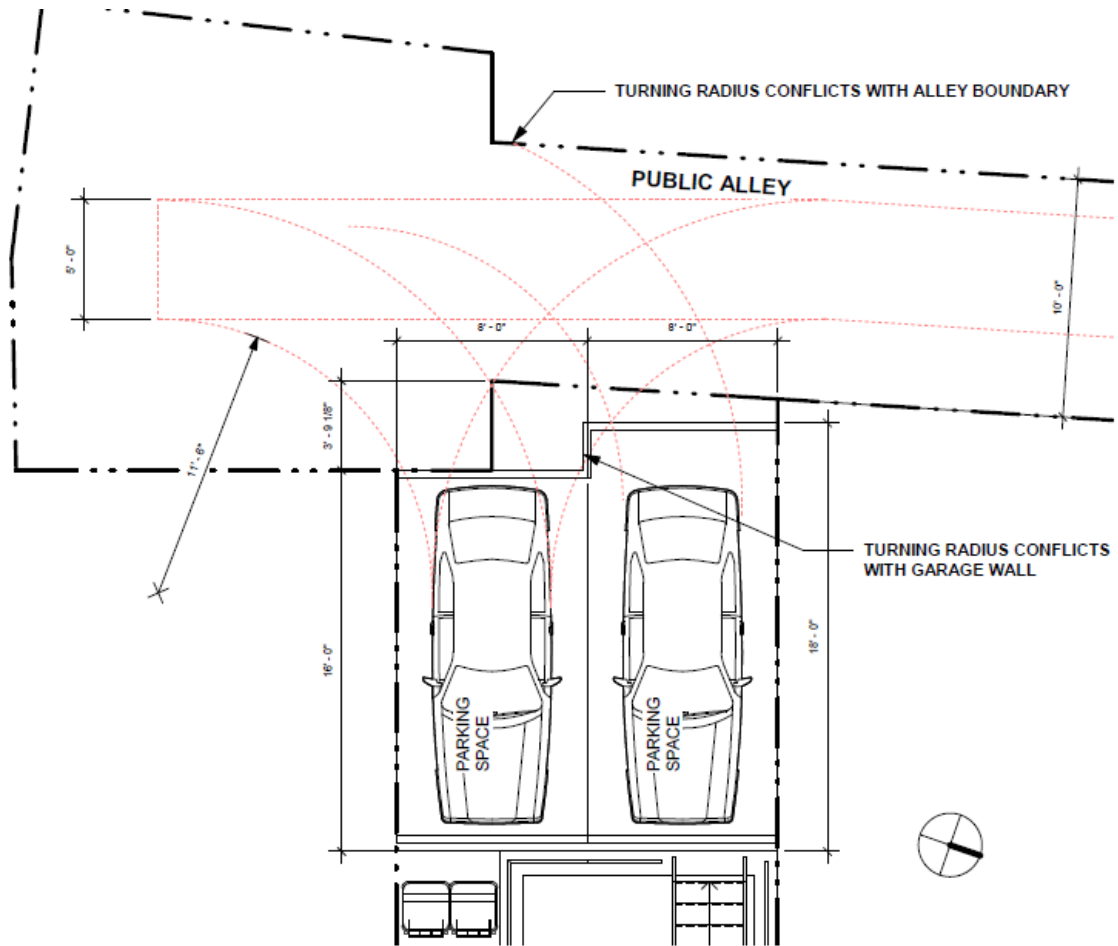
(d) No parking space, whether required or not required, shall have dimensions less than the compact-sized dimensions specified in Subtitle C § 712.6;

The Applicant is proposing to provide two (2) parking spaces, both parking spaces will measure eight (8) feet wide by sixteen (16) feet long, complying with the compact-sized dimensions specified in Subtitle C § 712.6 for a ninety (90) degree parking space.

(e) The Board shall grant relief only to the degree that the applicant demonstrates that physical constraints prevent it from reasonably complying with the requirements; and

As shown in the revised plat, the shape of the public alley is irregular, with a three (3) foot nine (9) inch dogleg along the Subject Property's rear lot line. This irregularity makes it impossible

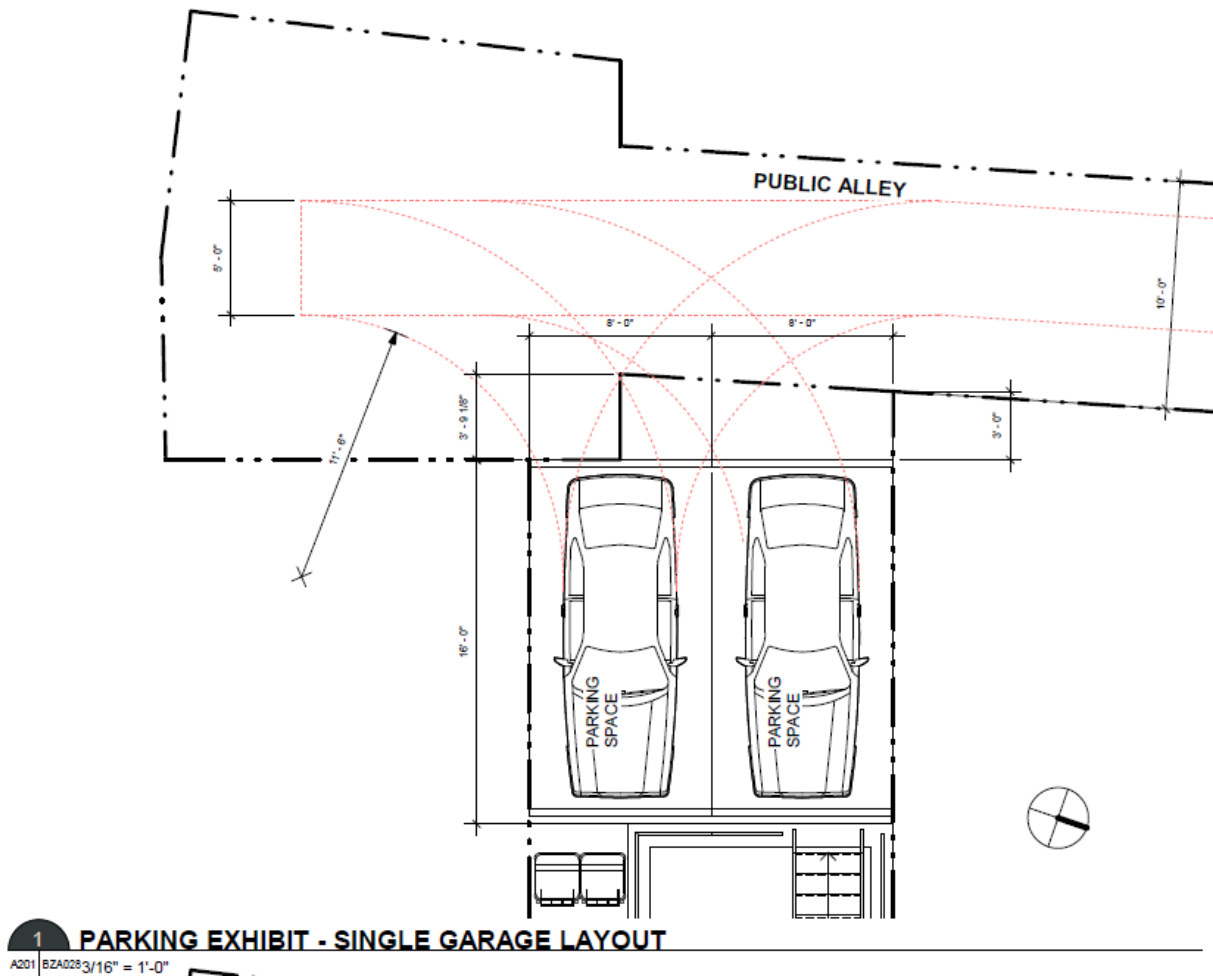
to provide two (2) parking spaces behind two roll-up doors, offset to match the contour of the alley, without unreasonably impairing the ability of vehicles to enter and exit both parking spaces. The doors would be narrow and the structure between the doors would interfere with the necessary turning radii of vehicles accessing both parking spaces.¹



2 PARKING EXHIBIT - ALTERNATING GARAGE LAYOUT
A201 | EZA0283/16" = 1'-0"

¹ Within the updated plans, the parking exhibit for the alternate layout shows vehicle circulation patterns and conflict points that would make a layout with individual roll-up doors unusable for vehicle parking.

Instead, the Project will incorporate a single roll-up door to access both parking spaces set back eight (8) feet from the alley centerline.² While providing a single roll-up door will necessarily shorten both parking spaces to sixteen (16) feet, the length of a compact parking space, it will provide an adequate width opening for vehicles to access both parking spaces and eliminate the obstruction that would have existed between the parking spaces if two (2) smaller, offset doors were provided.



(f) The Board may grant full or partial relief.

² Within the updated plans, the parking exhibit for the single-door layout shows vehicle circulation patterns and adequate vehicle access to both parking spaces using the single roll-up door set back eight (8) feet from the alley centerline.

As stated above and shown in the above diagrams, full relief is the minimum relief possible to ensure adequate vehicle access to both parking spaces.

Accordingly, it is not reasonably possible to comply with the parking length requirements of C § 712.3(f) due to the irregular shape of the public alley at the rear of the Subject Property, and desire to provide a roll-up door between the parking spaces and the public alley.

IV. CONCLUSION.

For the above reasons, the Application meets the requested special exception relief.

Respectfully Submitted,

Martin P Sullivan

Martin P. Sullivan, Esq.
Sullivan & Barros, LLP
Date: September 22, 2021

Andrew Justus

Andrew Justus, Esq.
Sullivan & Barros, LLP
Date: September 22, 2021