

Burden of Proof Special Exception Application

1227 E Street SE

To: **The Office of Zoning**
Government of the District of Columbia
Suite 210 South
441 4th Street, NW
Washington DC 20001

From: **Michael Fowler**
Agent/Architect
1819 D Street SE
Washington, DC 20003

Date: November 5, 2021

Subject: **BZA Application, McCulloch Residence**
1227 E Street SE (Square 1019, Lot 0058)

Margaret McCulloch, owner of 1227 E Street SE, hereby applies for special exceptions pursuant to Subtitle X, Chapter 9, to build a two-story rear addition and carriage house. The aspects of the proposed project that fall outside the current zoning regulations are as follows:

Application of Margaret McCulloch, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle E § 5201 from the rear yard extension requirements of Subtitle E § 205.4, and the lot occupancy requirements of Subtitle E § 304.1, to construct a carriage house and a rear two-story addition to an existing attached single family dwelling unit in the RF-1 Zone at premises 1227 E Street SE (Square 1019, Lot 0058).

I. Summary:

This special exception qualifies under ZR-16 Subtitle E, Chapter 5201 and Subtitle X, Chapter 9, because the lot occupancy does not exceed 70%, and the proposed addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property.

Subtitle E §205.4: The existing structure has a rear yard extension of 8.9', which will increase to 18.0' with the proposed addition.

Subtitle E §304.1: The existing lot coverage of 669.5 SF (40.2%) will increase to 1164.6 SF (70.0%) with the proposed addition.

II. Qualification of Special Exception

5201 Special Exception Relief from Certain Required Development Standards

By satisfying the requirements of E-5201.1, and E-5201.4 through E-5201.6, the application also meets the general special exception requirements of X-901.2, see below.

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 affected;*

1229-1231 E Street SE

1229-1231 E Street SE is a two-unit condominium that lies to the east of the property at 1227 E Street SE. The rear of 1229-1231 E Street SE is three-story and currently extends 6' beyond the rear wall of 1227 E Street SE. The proposed two-story rear addition at 1227 E Street SE will only extend 3.1' past the rear wall of 1229-1231 E Street SE. For these reasons, the light and air available to 1229-1231 E Street SE will not be unduly affected.

1225 E Street SE

1225 E Street SE lies to the west of the property at 1227 E Street SE. The rear of 1227 E Street SE currently extends 8.9' beyond the rear wall of 1225 E Street SE, and the proposed two-story rear addition will increase the extension to 18.0'.

The existing residence at 1227 E Street SE sits approximately 5.4' back from the front property line, and the width of the property varies from only 13.78' to 14.8'. By comparison both adjoining properties to the east and west are built to the front property lines and have widths of 16.9' and 31.2'. The massing of the proposed structure at 1227 is consistent with the neighboring structures, but it sits further back and requires extra length because of the unusually narrow lot width. The narrow width is also exacerbated by an encroachment over the property line by 1225 E Street SE that varies from .46' to 1.36' for a length of 29.95'.

A 3.0' side setback at the 2nd floor that starts 6.0' from the rear wall of 1225 E Street SE also reduces the impact. For these reasons, the light and air available to 1225 E Street SE will not be unduly affected.

1220 Pennsylvania Avenue SE

1220 Pennsylvania Avenue SE is a four-story residential apartment building with penthouse and below grade parking. A private parking lot separates the apartment building from the rear of the property at 1227 E Street SE and provides access. For these reasons, the light and air available to 1220 Pennsylvania Avenue SE will not be unduly affected.

- b. *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised.*

1229-1231 E Street SE

The proposed addition at 1227 E Street SE has no windows facing 1229-1231 E Street SE. The north facing windows of the carriage house are at the first floor level, and there is an existing privacy fence along the property line. Overall, the addition will not unduly compromise the privacy of use and enjoyment of the neighbors at 1229-1231 E Street SE.

1225 E Street SE

The proposed addition at 1227 E Street SE has no windows on the property line facing 1225 E Street SE. There is a small balcony created by the side setback, but this was designed to increase the available light and air at the neighbor's request. The north facing windows of the carriage house are at the first floor level, and there is an existing privacy fence along the property line. Overall, the addition will not unduly compromise the privacy of use and enjoyment of the neighbor at 1225 E Street SE.

1220 Pennsylvania Avenue SE

The proposed addition at 1227 E Street SE is separated from the apartment building by the rear yard and private parking area. Access to the rear of the properties along E Street, including 1227 E Street SE, is provided from Pennsylvania Avenue SE over the private property at 1220 Pennsylvania Avenue SE. Overall, the addition will not unduly compromise the privacy of use and enjoyment of the neighbor at 1220 Pennsylvania Avenue SE.

- 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 addition will not be visible from a public way. The existing square is extremely dense with a variety of existing structures and additions. The proposed addition is consistent in size and material construction of the existing adjacent structures. Because of the presence of other nearby structures and additions, the proposed two-story rear addition and carriage house will be in harmony with the intent of the regulations.

- d. *In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plan, 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.*

Architectural plans and photographs have been submitted with the application.

206.3 Roof Top or Upper Floor Elements

Any new building, or alteration or addition to an existing building, including a roof structure or penthouse (the "proposed construction") at the time of application, shall not significantly interfere with the operation of a solar energy system on an abutting property, unless agreed to by the owner of the solar energy system, subject to the following:

- (a) *"Time of application" shall mean the earlier of either:*
- (1) *The Department of Consumer and Regulatory Affairs officially accepts as complete the application for the building permit for the proposed construction; or*
 - (2) *The Office of Zoning officially accepts as complete an application for zoning relief for the proposed construction;*
- (b) *"Solar energy system" shall mean a solar energy system of at least 2kW in size that, at the time of application, is either:*
- (1) *Legally permitted, installed, and operating; or*
 - (2) *Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;*
- (c) *"Significantly interfere" shall mean that the proposed construction increases the shading incident on the solar energy system by more than five percent (5%) as determined by a comparative solar shading study acceptable to the Zoning Administrator; and*
- (d) *All applications for the proposed construction, whether for a building permit or for zoning relief, must include one of the following:*
- (1) *An affidavit by the applicant stating that there is no solar energy system on an abutting property;*
 - (2) *A comparative solar shading study which meets the minimum standard established by the Zoning Administrator for the purpose of determining the increased annual incident solar shading by percent; or*

- (3) *A written agreement executed by the owner of the impacted solar energy system accepting the interference with the solar energy system.*

A comparative solar shading study has been included that shows the increase in shading incident on the solar energy system is less than 5%.

901 Special Exception Review Standards

901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgement of the Board of Zoning Adjustment, the special exceptions:

- a. *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The new two-story rear addition and carriage house will be constructed of similar materials to other adjacent and nearby rear additions. Because of the presence of the other nearby additions and porches, the proposed addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

- b. *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;*

As described more fully above, the addition will not impact the light and air or privacy of the neighboring properties. The addition will also not adversely affect the use of neighboring properties as residential because the applicant is not proposing a change from the existing use as a single-family dwelling.

- c. *Will meet such special conditions as may be specified in this title.*

902 Application Requirements

An application for a special exception and an area variance shall meet the requirements of Subtitle Y § 300.

Along with this application, we have included the following items:

- a) Photos of the existing house and surroundings;
- b) Plan and elevation drawings of proposed addition, including a site plan showing the relationship of the proposed addition to adjacent buildings.
- c) Official Plat from the DC Office of the Surveyor.

If you require any further clarification or have any questions regarding the application, we are available at any time to discuss them with you.

Thank you,

Michael Fowler

Michael Fowler
Agent/Architect
202-546-0896