

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of Behzad Hossienkhani Trustee

BZA 21167

APPLICANT'S HEARING STATEMENT

November 27, 2024

This Hearing Statement ("Statement") outlines the existing and proposed use of the property of application, and the manner in which the application ("Application") complies with the specific tests and burden of proof for the variances and special exception reliefs sought in this application before the Board of Zoning Adjustment (BZA)

NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR Subtitle X Chapter 9 § 900.2, and Subtitle G, Chapter 52, § 5200.1 for special exception under Subtitle G, Chapter 2, § 210.1 to allow the construction of an open rear deck, in excess of the maximum permitted percentage of lot occupancy for its underlying MU-4 zone district.

Special exception from the provisions set forth under Subtitle C, Chapter 2, § 202.2 (a), (b) and (c), is also requested because the proposed deck addition increases an existing nonconformity of structure with respect to percentage of lot occupancy and creates a new nonconformity of rear yard not in existence.

Applicant further seeks special exception relief pursuant to Subtitle G, Chapter 7, § 207.14, and Subtitle X, Chapter 9, § 900.2, from the minimum rear yard setback provision set forth under Subtitle G, Chapter 2, § 207.6 out of an abundance of caution, notwithstanding that applicant believes that relief may not required

SUMMARY OF APPLICATION

The applicant seeks special exception pursuant to 11 DCMR Subtitle X Chapter 9 § 902.1 as set forth under Subtitle G, Chapter 2, § 210.1, special exception from Subtitle C, Chapter 2, § 202.2 (a), (b) (c), and special exception pursuant to the conditions set forth under Subtitle G, §207.14 and Subtitle X, Chapter 9, §900.2 for relief from the rear yard setback provision set forth under Subtitle G, Chapter 2, § 207.6 to allow the retention of a constructed deck at the rear of an existing nonconforming structure devoted to a conforming use.

The subject property is located in the MU-4 zone district and devoted to a conforming residential use (A Flat or two-family dwellings), as the term is defined.

JURISDICTION OF THE BOARD

The application is properly before the BZA. The Board is authorized to grant the requested special exception pursuant to § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (2) (2001), as further set forth in 11 DCMR, Subtitle X, Chapters 9 and 10, §§ 900.2 and 1000.1 respectively.

PROPERTY LOCATION AND PROJECT DESCRIPTION

The property is located in the Ledroit Park Historic District neighborhood in the Northwest quadrant at 527 Florida Avenue NW. The subject property is an improved irregularly-shaped interior lot fronting Florida Avenue NW, with a narrow panhandle rear lot line four feet (4 ft.) wide abutting a 15 feet public alley.

The subject property is legally described as being located within Square 3093, lot 0029 according to available records of the DC Surveyor. The subject property is 18.0 feet wide and 1,468.08 square feet in area

The existing improvement or structure on the subject property is an existing nonconforming structure because the existing building footprint is more than the maximum allowed percentage of lot occupancy for its underlying MU-4 zone district, condition which predates the adoption of the 1958 Zoning Regulations.

The applicant proposes the construction of an open deck in the rear of subject property. The proposed deck will be ten feet in depth, and span the width of the lot, which is approximately eighteen feet (18 ft.); hence a ten by 18 feet rear deck.

Compliance with the three standards set forth under X, § 901.2 (a), (b), and (c)

(a). Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

The intent and purpose of the MU-4 zone district set forth under Subtitle G, Chapter 1, §§ 101.1 and 101.2 within which subject property is located is in summary to provide for mixed-use development ranging from commercial, institutional to multiple-dwelling residential development at varying densities, specifically housing, residential, office, service and employment centers

The use of the subject property as a two-unit building or flat, hence a residential use, is in harmony with the intent and purpose of the Zoning Regulations stipulated for the underlying zone district within which subject property is located.

The subject property is less than the density prescribed for the proposed use

For the foregoing reasons, the applicant submits that the proposed project 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.

The subject property is among a cluster of neighboring properties which share common rear yards, one of which together abuts the 15 feet public alley.

All adjoining properties north-west and south-east of subject property fronting on Florida Avenue NW are located within the same MU-4 zone district.

The subject property shares partial abutting lot lines with only two of the row dwelling North of it and located in RF-1 zone district. The immediately adjoining area of the two properties are in fact the rear yards of the properties located in the RF-1 zone district.

The deck is unenclosed and will not result in casting a shadow on adjoining properties and will not tend to affect adversely the privacy of use of adjoining properties.

The project will comply with all other development standards applicable in the underlying zone district of location, save for the areas of relief it is otherwise compelled to request.

For the foregoing reasons, the applicant submits that granting the special exception requested will not tend to affect adversely, the use of neighboring properties in accordance with the Zoning Regulations and Zoning Maps.

(c). Will meet such special conditions as may be specified in this title.

The Applicant seeks special exception relief from the minimum required rear yard pursuant to Subtitle G, Chapter 2, § 207.14 and the conditions specified and set forth under (a) through (e), (1), (2) and (3)

(a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;

As the Applicant shall supplement the record at final submission, applicant shall graphically represent that the natural cluster of the properties converging in respective rear yards results in the foreclosure of any apartment window within forty feet (40 ft.) of the proposed deck.

Further, there will be no net change in the existing distance between apartment windows and/or another building.

(b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;

The immediately adjoining zone district is the residential RF-1 zone district. Hence no office window exists within the requisite distance.

(c) In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;

Applicant shall provide in final submissions, graphic illustration of compliance with this provision.

(d) Provision shall be included for service functions, including parking and loading access and adequate loading areas; and

The subject project of application is a two-unit residential use not subject to any parking and loading requirement. Moreover, the subject property is only pedestrian accessible from the rear via a 15-foot public alley

(e) Upon receiving an application for relief from rear yard requirements of this section, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with coordination of reviews in writing from all relevant District of Columbia departments and agencies, including:

(1) The District Department of Transportation;

(2) The Department of Housing and Community Development; and

(3) The Historic Preservation Office if the application involves a historic district or historic landmark.

The subject property of application is located within the Ledroit Park Historic District, The Applicant has submitted the proposed rear deck to the Historic Preservation Office (HPO) for review

WITNESS

1. Behzad Housseinkhani. Owner

CONCLUSION

The application is supported by one immediately adjoining neighbor and other neighbors in close proximity, as attested by the neighbor support letter (Exhibit # 29).

The applicant presented the project before the Zoning Historic and Planning Development Committee (ZPD) of the Advisory Neighborhood Commission 1B (ANC1B) on August 19, 2024, and received unanimous approval, with the caveat that the ZPD will recommend approval to the full ANC.

The Applicant anticipates that the ANC will have filed a report in affirmation of the foregoing.

The Applicant submits that the instant application complies with all conditions for the granting of the three special exception reliefs sought as outlined above and as shall be further documented, and respectfully requests that the relief be granted.