

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

Application of Rear 304 – 308 K Street NE

APPLICANT’S PRE-HEARING STATEMENT

July 30, 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 variance 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 10 § 1000.1, more specifically § 1001.2 for area variance to allow the subdivision of a single alley lot of record into two record lots not meeting the minimum lot area prescribed under Subtitle E, Chapter 2, § 202.1 for one-family semi-detached dwellings, and the alley lot subdivision provisions set forth under Subtitle C, § 306.1 (a) (b) and (c) for the RF-1 Zone District within which the subject property is located.

The applicant seeks area variance relief from the provisions of Subtitle C, Chapter 3 § 306.1 (a), (b) and (c) which stipulate respectively that an alley record lot shall front on a public alley not less than twenty-four feet (24 ft.) wide, which has access to a public street through a public alley or network of public alleys a minimum twenty-four feet (24 ft.), in width and meet the minimum lot area standards set forth under Subtitle E, Chapter 2, § 202.1.

Subtitle E, Chapter 2, § 202.1 prescribes a minimum of three thousand square feet (3,000 sq) lot area and thirty feet (30 ft.) of lot width for a semi-detached one-family dwelling in the RF-1 zone district.

The proposed subdivision of the existing alley record lot into two alley record lots results in minimum lot area less than prescribed (2,858 sf. And 2857 sf,) respectively. The proposed two lots comply with and far exceed the minimum lot width of thirty feet (30 ft.).

The applicant further seeks special exception from the Use Provisions set forth under Subtitle U, Chapter 6, § 600.1 (f) (4) (B) pursuant to Subtitle U, Chapter 6 § 601.1 (f) subject to the conditions thereof, to establish the use of a one-family dwelling on an alley lot not meeting the prescribed minimum fifteen feet (15 ft.) width of alley within three hundred linear feet (300 lft.) of an improved public street.

SUMMARY OF APPLICATION

The applicant seeks the above area variance and special exception to construct two new one-family semi-detached buildings on the proposed subdivided record lots.

The subject property is located within the RF-1 zone district within which the proposed use as a one-family dwelling is permitted as a matter of right, save for the special exception sought from a specific condition applicable to the proposed use on alley lots.

The proposed project complies with all other applicable provisions of the Zoning Regulations, including maximum lot occupancy, minimum lot area, height, number of stories, and required parking.

JURISDICTION OF THE BOARD

The application is properly before the BZA. The Board is authorized to grant the requested special exception and area variance under § 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 North of Massachusetts Avenue (NOMA) neighborhood in the 300 block of K Street NE. The subject property is currently unimproved, irregular in shape and abuts two public alleys to its northern and western boundaries.

The north-south alley which connects K and L Streets NE is approximately ten feet (10 ft.) wide, whereas the east-west alley which runs perpendicular to the north south alley is unimproved and approximately twenty-feet (20 ft.) in width.

The subject property is an alley lot by definition and is located behind 304 through 308 K Street, lots which front on K Street NE

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF (AREA VARIANCE)

The Applicant, by preponderance of the materials submitted with this Application, facts to be presented in the course of the public hearing and further evidence to be submitted twenty-one days prior to the hearing date, will prove compliance with the three-prong test necessary for the granting of the area variance and special exception sought, as outlined below.

The Board is authorized to grant an area variance where a property demonstrates three characteristic elements:

1. The subject property must demonstrate a unique physical characteristic of shape or size, exceptional narrowness or shallowness which existed as of the time of the original adoption of the Zoning Regulations, or that there exists exceptional topographical conditions or other extraordinary or exceptional situation or condition of property;
2. That the physical characteristic(s), or extraordinary or exceptional situation or condition of the property makes the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties to the owner of the property;
3. That the Board is able to grant the variance without substantial detriment to the public good and without substantial impairment of the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

EXTRAORDINARY OR EXCEPTIONAL SITUATION OR CONDITION OF PROPERTY

The Subject Property comprised of a single record lot which is approximately five thousand, seven hundred and fifteen square feet (5,715 sf.) of land area.

The applicant contends that the extraordinary situation or condition of property is the fixed area of lot which does not permit expansion of land area for compliance with the prescribed minimum lot area for the proposed use, condition which predate the adoption of ZR16, including the fixed widths of abutting public alleys in existence prior to the May 12 adoption of the 1958 Zoning Regulations.

The unusually large lot is an anomaly in the RF-1 zone district, and it is lot size more common and prescribed in the second most restrictive R residential zone district (R-1-B district)

The applicant contends that the physical shape of the alley lot, its unusual size in the underlying RF-1 zone district converge to result in extraordinary situation and condition of property

PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY

The development of the subject property as a single-family dwelling is impractical, unfeasible in its market area and will be incompatible in the neighborhood, which is predominantly improved with row dwellings, flats predominantly on approximately sixteen feet (16 ft.) wide lots, and large apartment houses.

That proposal is likewise subject to the same special exception relief sought in the instant application

The subject property is bounded across the western alley by a seven-story residential building

Applicant intends to graphically represent the incompatibility of the foregoing option to the general architectural theme and fabric of the neighborhood in the course of additional submissions prior to and in the course of the hearing.

Applicant contends therefore that the unusual size of the alley lot, the foreclosure of the possible acquisition of additional land area of approximately two hundred and eighty-five square feet to make up for the difference in lot area to conform, and the fixed width of

public alley converge to result in peculiar and practical difficulties upon the owner, if the Zoning Regulations were strictly applied.

SUBSTANTIAL DETRIMENT TO PUBLIC GOOD AND SUBSTANTIAL IMPAIRMENT OF INTENT, PURPOSE AND INTEGRITY OF THE ZONE PLAN

The applicant seeks to construct two new one-family semi-detached structures, on lots that are an infinitesimal one hundred and forty-two (142 sf) and one hundred and forty-three square feet (143 sf) respectively short of the minimum three thousand square feet (3,000 sf) prescribed for the proposed structures and set forth under Subtitle E, Chapter 2, § 202.1.

The proposed structures will otherwise comply with and exceed all other applicable development standards, including providing two (2) parking spaces for each lot

The proposed development is more compatible with the architectural fabric of the neighborhood which is predominantly improved with row dwellings and flats in lots less than eighteen feet wide, and larger residential development, albeit in adjoining lesser restrictive zone districts.

Under stated conditions, residential developments are permitted on much smaller lots, as small as four hundred and fifty square feet (see Subtitles C, § 306.3 (a) and U, § 600.1 (f) (2))

The requested relief is de minimis falling short of the ZA deviation authority set forth under Subtitle A, § 304.2 (a) by eighty-six and eighty-seven square feet respectively

The proposed project complies with all other requirements and provisions of the Zoning Regulations and would cause to be improved, an otherwise unimproved/vacant alley lot which is likely to remain unimproved due to market variables related to its size, absent the relief sought before the BZA.

The proposed project is intended to result in a development which will not be incompatible with the scale and character of the neighborhood.

COMPLIANCE WITH SPECIAL EXCEPTION STANDARDS

As set forth under Subtitle X, Chapter 9, § 901.2, the Board of Zoning Adjustment is authorized to grant special exceptions, as provided in this title, where, in the judgment 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;
- (b). Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (c). Will meet such special conditions as may be specified in this title.

The applicant further seeks special exception pursuant to Subtitle U, § 601.1 (f) subject to the conditions set forth under § 601.1 (f) (1) - (5) (a) – (f), (6) (a) – (e) from the provision of Subtitle U, § 600.1(f) (4) (B), which stipulates that a one-family dwelling shall have unimpeded access to an improved public street via an improved public alley not less than fifteen feet (15 ft.) wide within a linear distance of three hundred feet (300 ft.).

The subject property is within three hundred feet of both L and K Streets NE, but the north-south alley connecting these two streets is less than fifteen feet (15 ft.) wide.

Itemized below verbatim, are the conditions the Board must consider in granting the special exception sought as described above, including the application's compliance, save for those referrals which the applicant will engage each agency of referral for resolution of any concerns expressed or conditions preferred.

1. The Alley Lot is not wholly or partially within any of the R-1 or R-2 zones;

The subject property is not wholly or partially within the R-1 or R-2 zones

2. A building may not be constructed or converted for a dwelling unit unless the lot is an Alley Record Lot and there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area;

The proposed alley lots are 2857 sf and 3858 sf respectively and far in excess of the minimum four hundred and fifty square feet prescribed herein

3. The use shall be limited to one (1) dwelling unit per lot; accessory apartments are not permitted;

The proposed use is a one-family dwelling and an accessory apartment is not contemplated.

4. The Alley Lot connects to an improved public street through an improved alley or system of alleys that provides adequate public safety and infrastructure availability;

The alley lots will connect to an improved public street through improved alleys. Applicant intends to improve the east-west public alley at cost in the event DDOT is unable for any reason. Applicant shall provide evidence of access to available infrastructure

5. The Office of Zoning shall refer to the following agencies for their review and recommendation, if filed to the case record within the forty (40) day period established by Subtitle A § 211:

(A). Department of Transportation (DDOT);

(B). Department of Public Works (DPW);

(C). Metropolitan Police Department (MPD);

(D). Fire and Emergency Medical Services Department (FEMS);

(E). DC Water (WASA); and

(F). If a historic district or historic landmark is involved, the Historic Preservation Office (HPO); and

(6). The Board of Zoning Adjustment shall consider relevant agency comments concerning:

- (A). Public safety;
- (B). Water and sewer services;
- (C). Waste management;
- (D). Traffic and parking;
- (E). Historic preservation; and

Applicant intends to engage each agency or entity of referral to address concerns and recommendations as may be necessary. The subject property is not within any Historic District

WITNESSES

1. Gregory & Ina Igbozuruike
2. Ramy Alli. Architect

CONCLUSION

The Applicant submits that the instant application complies with all conditions for the granting of the requested area variance and special exception as outlined above and as shall be further documented, and respectfully requests that the relief be granted upon the satisfactory conclusion of the public hearing.