

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Prehearing Statement
BZA Case No. 21249 of 4231 Clay ST NE, LLC
4231 Clay Street, NE (Square 5088, Lots 45 & 46)

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

This Statement is submitted on behalf of 4231 Clay ST NE, LLC (the “**Applicant**”), owner of the property located at 4231 Clay Street, NE (Square 5088, Lots 45 & 46) (the “**Property**”). The Property is located in the R-2 zone district and currently improved with a two-story (+ basement) building (the “**Building**”). The Applicant is proposing to use the existing Building for an assisted living facility with no age limit. While this type of use is commonly associated with a Continuing Care Retirement Community, those uses are limited to 60+ years of age per the Zoning Regulations. As the proposed use has no age limit, the Zoning Regulations do not categorize this as a Continuing Care Retirement Community. The use is licensed under the Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 and are therefore falls under the definition of a “Health Care Facility” per the Zoning Regulations.¹

A health care facility is a matter of right use in the R-2 zone if it is limited to 8 residents. The facility has already obtained a license for 8 residents, which is being submitted as an exhibit to this statement, but seeks to increase this to 16 residents. Subtitle U-203.1(j) permits special exception approval for a health care facility between 9 and 300 persons. The proposed use will have 16 beds; accordingly, the Applicant is requesting special exception approval pursuant to U-203.1(j).

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief requested pursuant to Subtitle X-901.2 and U-203.1(j).

III. WITNESSES

¹ Defined as: **Health Care Facility**: A facility that meets the definition for and is licensed under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §§ 32-44-501*et seq.*)

The Applicant anticipates that Alexandra Wilson from Sullivan & Barros will lead the presentation and that Mr. Aaron Eyob and Mr. Senay Medhani from the owner's team will be available for questions.

IV. BACKGROUND.

A. Description of the Property Location and Surrounding Area.

The Property is located in the R-2 zone district. It is made up of two record lots which combined have 50 feet in width and 4,688 square feet in land area. Abutting the Property to the north is Clay Street, NE. Abutting the Property to the south is a public alley. Abutting the Property to the west is a detached single-family dwelling (4223 Clay Street NE). Abutting the Property to the east is a detached single-family dwelling (4233 Clay Street). The area is primarily made up of low-density single-family uses and some institutional uses. The Property is located approximately three-tenths (0.3 mi.) of a mile from the Benning Road Metro Station and near several bus stops.

B. Proposed Use.

A more detailed description of the proposed use has been included as an Exhibit to this filing labeled "Proposed Facility Description-4231 Clay Street." The processes and procedures for the facility have also been included as an Exhibit labeled "Assisted Living Facility Policies and Procedures."

V. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF.

A. General Special Exception Criteria.

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. The proposed use is residential in nature and is appropriate in this location given the quiet nature of the use which is to promote and facilitate restful recovery and get residents back to independent living, if possible.

B. Requirements of Subtitle U-203.1(j).

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).

The proposed use is defined as a “health care facility” under the Zoning Regulations. When limited to only 8 residents, it is considered a matter-of-right use. The regulations permit up to 300 residents via special exception. The Application meets the requirements of U-203.1(j) as follows:

(1) In R-Use Group A, there shall be no other property containing a health care facility either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property;

The Property is not in R-Use Group A.

(2) In R-Use Groups B and C, there shall be no other property containing a health care facility either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property;

The Applicant is proposing a similar facility at 4237 Eads Street, which is approximately 450 feet from the subject Property. As noted in (6), the Board may permit more than one health care facility within 500 feet, subject to U-203.1(j)(6).

(3) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

The Applicant is providing four parking spaces where only one is required. The parking shall be screened. An existing fence will be maintained, and the parking is hidden by a roll-up door along the alley side. The occupants are not expected to have cars given the nature of the facility. Further, there will be a limited number of staff members per shift. Visitors will be coordinated as detailed in the visitor policy. If needed, visitors can park on-site. In addition to the on-site parking, there is on-street parking available near the Property as demonstrated by the photographs included as an Exhibit to this submission. Further, there are several bus stops nearby and the Property is only four-tenths of a mile from the metro if visitors or employees desire to use public transportation.

(4) The proposed facility shall meet all applicable code and licensing requirements;

The proposed facility will meet all applicable code and licensing requirements, as further demonstrated by the Policies and Procedures Manual included with this submission. The facility

has already been granted a license as a health care facility for only 8 persons is permitted by right in the zone.

(5) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and

The proposed density is still quite limited considering that a health care facility for up to 300 residents is permitted via special exception. And the nature of the use is such that it will be a quiet use with limited visitors, limited deliveries, and quiet hours, as detailed in the Proposed Facility Description. Further, the Applicant has also submitted a statement of community outreach, which includes support from a nearby neighbor. The adjacent property to the east is vacant. The owner of the adjacent property to the west does not live at the property. It was most recently rented out for Airbnb but appears to be vacant currently.

(6) More than one (1) health care facility in a square or within the distances of (1) and (2) above may be approved only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations;

The Applicant is proposing a similar facility at 4237 Eads Street, which is approximately 450 feet from the subject Property. Given that the two facilities will have adequate parking, limited visitors, are both intentionally quiet uses for the recovery and care of patients and are relatively small in size (16 beds each) given the special exception permit up to 300 patients, the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.

VI. CONCLUSION.

For the reasons stated above, this Application meets the requirements for special exception relief by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,

Alexandra Wilson

Alexandra Wilson
Sullivan & Barros, LLP
Date: March 6, 2025