

## **Supplemental Burden of Proof Statement**

### **Specific Special Exception Requirements of U-253**

**U-253.4: In the R-1B/GT or R-3/GT zone, an accessory apartment shall be permitted as a special exception in either a principal dwelling or an accessory building if approved by the Board of Zoning Adjustment, subject to the provisions of this section.**

**U-253.5: Either the principal dwelling or accessory apartment unit shall be owner occupied for the duration of the accessory apartment use.**

The principal dwelling unit or the accessory apartment will be owner-occupied for the duration of the accessory apartment use.

**U- 253.6: The total number of persons that may occupy the accessory apartment shall not exceed three (3), except in the R-19 or R-3/GT zone where the aggregate number of persons that may occupy the house, including the principal dwelling and the accessory apartment combined, shall not exceed six (6).**

The total number of persons that occupy the accessory apartment will not exceed six persons, including the principal dwelling and accessory apartment combined.

**U-253.7: N/A, as this provision only applies to accessory apartments located in a principal building.**

**U-253.8: An accessory apartment in an accessory building in an R zone, except the R-1B/GT or R-3/GT zone, shall be permitted as a matter of right subject to the following conditions:**

**(a) There shall be permanent access to the accessory building apartment;**

See (c) below.

**(b) The dwelling use of the accessory building shall be coterminous with the permanent access;**

The dwelling use of the accessory building will be coterminous with the permanent access described below.

**(c) The permanent access shall be provided by one (1) of the following:**

**(1) A permanent passage, open to the sky, no narrower than eight feet (8 ft.) in width, and extending from the accessory building to a public street through a side setback or shared recorded easement between properties;**

**(2) Through an improved public alley with a minimum width of twenty-four feet (24 ft.) that connects to a public street; or**

**(3) The accessory building is within three hundred feet (300 ft.) of a public street accessible through an improved public alley with a minimum width of fifteen feet (15 ft.);**

Permanent access exists from the accessory building through a recorded easement with a width of more than eight feet (8 ft), through to P Street.

**(d) An accessory building that houses an apartment shall not be used simultaneously for any accessory use other than as a private vehicle garage, an artist studio, or storage for a dwelling unit on the lot;**

The accessory building will not be used simultaneously for any accessory use other than a private vehicle garage, an artist studio or storage for a dwelling unit on the lot.

**(e) An accessory building that houses an apartment shall not have a roof deck; and**

The accessory building, the proposed addition, will not have a roof deck.

**(f) An accessory apartment proposed within an accessory building that does not meet the conditions of this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, and subject the following conditions:**

**(1) The accessory building shall be located such that it is not likely to become objectionable to neighboring properties because of noise, traffic, parking, or other objectionable conditions; and**

**(2) Evidence that there are adequate public utilities for the health and safety of the residents.**

The accessory building already exists in its current location. The proposed work will add a second story to the existing accessory building. Furthermore, this accessory building exists among a row of accessory buildings (see BZA Exhibit 10 photos), all of which enjoy access through the same easement benefiting the Applicant's property.

**U - 253.9: An accessory apartment proposed in the R-1B/GT or R-3/GT zone shall be subject to the restrictions of Subtitle U §§ 253.5 through 253.8 and the following conditions:**

**(a) It shall only be permitted on the second story of a detached accessory building; and**

**(b) Any balcony or projecting window shall not face a principal building in single household residential use; and provided the balcony is located entirely within the permitted footprint of the accessory building.**

The Applicant is requesting a waiver of U-253.9(a) and discusses in the section below how the application meets the requirements for such a waiver.

**U-253.10: Not more than two (2) of the requirements specified in this section may be modified or waived by the Board of Zoning Adjustment subject to the following limitations:**

**(a) The owner-occupancy requirement of Subtitle U § 253.5 shall not be waived in any R zones;**

**(b) Subtitle U § 253.6 shall not be modified or waived in the R-1B/GT or R-3/GT zone; and**  
**(c) Any modification(s) approved shall not conflict with the intent of this section to maintain a single household residential appearance and character in the R zones.**

The Application satisfies the above-referenced limitations, as follows:

(a) The Applicant is not seeking a waiver of the owner occupancy requirement.

(b) The Applicant is not seeking a waiver of U-253.6, which limits the aggregate number of persons that may occupy the principal dwelling, and the accessory apartment combined at six (6).

(c) The requested modification will not conflict with the intent of this section to maintain a single household residential appearance and character. This is an existing accessory building, which will now have a second floor. No changes are proposed to the principal building that would alter the single household residential appearance thereof. The Applicant will also continue to have one parking space on the property, as required.

**U- 253.11: In addition to Subtitle U § 253.10, the Board of Zoning Adjustment may approve as a special exception the inclusion of a balcony or projecting windows for the accessory apartment.**

No balconies or projecting windows are proposed for the accessory apartment.

**U-253.12: Any request to modify more than two (2) of the requirements of this subsection shall be deemed a request for a variance.**

Only one waiver is requested from the requirements of subsection 253.9 (a).

**U-253.13: Prior to renting an accessory apartment in any zone, the property owner shall obtain a Residential Rental Business License from the Department of Consumer and Regulatory Affairs and the property shall be inspected for relevant housing code compliance.**

The Applicant will comply with this provision.

Respectfully Submitted,

*Martin P Sullivan*

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