

DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

Applicant’s Statement of Florida 21 LLC

2152 Florida Avenue, NW (Square 66, Lot 828)

I. INTRODUCTION.

This Statement is submitted on behalf of Florida 21 LLC (the “**Applicant**”), owner of the property and improvements located at 2152 Florida Avenue, NW (Square 66, Lot 828) (the “**Subject Property**”). The Subject Property, located in the RA-8 zone district, is improved with an existing, one-family row building (the “**Building**”). The Applicant is proposing to construct an addition on top of the existing footprint (the “**Addition**”) and convert the building to four residential units (the “**Project**”).

The Applicant is seeking special exception relief for court width. Pursuant to F § 202.1, a court is not required in the RA-8 zone, but if provided, the width must be at least four inches per foot (4 in./1 ft.) of the height of the court. Based on the court height of forty-three feet and six inches (43 ft. 6 in.)¹ directly adjacent to the open court, the Building must have a court width measuring fourteen feet and six inches (14 ft. 6 in.). The Building has an existing court, measuring only twelve feet and four and a half inches (12 ft. 4.5 in.). The existing court is legally conforming because the current use is a single-family dwelling and there is no minimum court requirement for single-family dwellings, flats, or multi-unit apartment buildings with three (3) residential units.

As part of the Project, the Applicant is constructing a spiral stair at the rear of the Subject Property, in the open court area. A court is defined as “an unoccupied space . . . open to the sky.” The staircase counts against the court width measurement and reduces the width of the court to six feet (6

¹ The overall building height, as measured from the Building Height Measuring Point (“BHMP”) is only forty feet (40 ft.); however, the height increases at the rear due to a slope, so the portion adjacent to the court (the “height of court”) is forty-three feet and six inches (43 ft. 6 in.).

ft.) for that portion adjacent to the staircase. Accordingly, the Applicant is requesting special exception relief from the minimum court width requirements of F § 202.1 pursuant to F § 5201.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception approval requested pursuant to Subtitle F § 5201 from the requirements of F § 202.1.²

III. BACKGROUND.

A. Description of the Subject Property and Surrounding Area.

The Subject Property is located in the RA-8 Zone District and in the Dupont Circle Historic District. It is an interior lot measuring 2,017 square feet. The Subject Property is improved with a three-story, single-family, row building. Abutting the Subject Property to the north is a single-family dwelling. Abutting the Subject Property to the south is a residential building that has been converted to at least two units. Abutting the Subject Property to the west is Florida Avenue, NW. Abutting the Subject Property to the east is a small art gallery located in Hillyer Court, known as IA&A at Hillyer. The area is characterized by a mixture of institutional uses, such as art galleries and museums, apartment buildings, flats, and single-family dwellings.

B. Proposed Project and Requested Relief.

The Subject Property is improved with a three-story, single family dwelling, constructed in 1888. The Building is currently used as a single-family dwelling and has an existing court measuring twelve feet and four and a half inches (12 ft. 4.5 in.). There is no minimum court requirement for a

² On May 11, 2020, the Zoning Commission adopted text amendment No. 19-14. Prior to this amendment, since the adoption of the 2016 Regulations, court relief was not included in the list of items available for special exception relief (this was the case only in the RA zones). This anomaly has been corrected by 19-14. While 19-14 will not become effective until it is published in the D.C. Register, the expectation is that it will be so published well before the BZA hearing date for this Application.

single-family dwelling, flat, or even a multi-family building with three units, so the existing court is conforming.

The Applicant is proposing to construct a partial fourth-story addition on top of the existing Building footprint and convert the Building to four residential units. A multi-family building in the RA-8 zone has a court requirement of four inches per one foot of (4 in./1 ft.) of height, and at least ten feet (10 ft.). Based on a height of forty-three feet and six inches (43 ft. 6 in.), the minimum court requirement is fourteen feet and six inches (14 ft. 6 in.).

As part of the Project, the Applicant is constructing a spiral stair at the rear of the Subject Property in the court area. A court is defined as “an unoccupied space . . . open to the sky.” The staircase counts against the court width measurement and reduces the width of the court to six feet (6 ft.) for that portion adjacent to the staircase. Other than the portion abutting the staircase, the existing court width will be maintained. Accordingly, the Applicant is requesting special exception relief in order to provide a court width of six feet (6 ft.) instead of fourteen feet and six inches (14 ft. 6 in.).

I. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION APPROVAL.

A. Overview.

Pursuant to 11-X DCMR § 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, subject also, in this case, to the specific requirements for approval pursuant to 11-F DCMR § 5201 of the Zoning Regulations. 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).

B. General Special Exception Requirements of 11-X DCMR § 901.2.

The Applicant is requesting approval pursuant to F § 5201 in order to construct a partial fourth story on top of the existing Building footprint. In order to obtain this approval, an Applicant must meet the general special exception requirements of X § 901.2. The granting of a special exception in this case “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 in accordance with the Zoning Regulations and Zoning Maps ...” (11 DCMR Subtitle X § 901.2).

1. Addition will be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps.

The Addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The Subject Property is located in the RA-8 Zone which “provides for areas developed with predominantly moderate density apartments.” (F § 600.2) The Applicant is proposing to add a partial fourth story to the existing Building footprint and convert it to four residential units in accordance with the general provisions of Subtitle F § 600.2. Moreover, the Zoning Regulations specifically permit special exception relief from the minimum court dimensions and the Zoning Commission recently voted to correct an anomaly in the 2016 regulations which required variance approval from the minimum court width dimensions. Accordingly, the proposed Addition will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

2. Addition will not tend to affect adversely, the Use of Neighboring Property in accordance with the Zoning Regulations and Zoning Maps.

As described more fully below, 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 the Applicant is proposing a modest partial Addition on top of the existing Building footprint. Four residential units are permitted as a matter-of-right in the RA-8 Zone, and while the court width is technically being decreased by the spiral stair, the overall area of the court is not being significantly altered and will remain open.

C. Requirements of 11-F DCMR § 5201.

The proposal in this Application satisfies the requirements of 11-F DCMR § 5201,³ as follows:

Section 5201.1: For an addition to a principal residential building on a non-alley lot or for a new principal residential building on a substandard non-alley record lot as described by Subtitle C § 301.1, the Board of Zoning Adjustment may grant relief from the following development standards of this subtitle as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9.

The Applicant is proposing an addition to a principal residential building on a non-alley lot. Accordingly, the Applicant is permitted to request relief from the minimum court width pursuant to F § 5201.1(c).

Section 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 compromised;

The light and air available to the neighboring properties shall not be unduly compromised by the proposed Addition. The property to the north does not abut the court and will not be impacted

³ The Applicant is using the language from the recently approved text amendment (ZC Case No. 19-14) in anticipation of the pending change to the Zoning Regulations.

by the requested relief. Regarding the property to the south, the Applicant is maintaining the existing court width, except for the portion adjacent to the proposed spiral stair. The stair will allow light and air through to the adjacent property to the south. Regarding the property to the east, its rear faces the Subject Property; accordingly, its light and air will not be impacted by the proposed Addition and spiral stair.

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

The privacy of use and enjoyment of neighboring properties shall not be unduly compromised. The properties to the north and east do not have any windows facing the Subject Property and the proposed Addition does not have any windows facing the either property. Regarding the property to the south, the Applicant is maintaining the existing court width, except for the portion adjacent to the proposed stair. The windows proposed on the fourth story Addition will be set back the same distance as the existing windows that already face the building to the south—all of which are located over twelve feet (12 ft.) from the property to the south.

(c) The proposed addition or accessory structure, together with the original building, or the new 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 and alley frontage; and

The proposed Addition, together with the original Building, as viewed from the street, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street. There is no alley at the rear of the Subject Property. The Applicant is maintaining the existing façade and the proposed Addition will be set back from the front façade. The Subject Property is located in the Dupont Circle Historic District and the proposed Project is ultimately subject to review by the Historic Preservation Review Board (“HPRB”).

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

The Applicant has provided plans, photographs, elevations, and section drawings sufficient to represent the relationship between the proposed Addition to adjacent buildings and views from public ways.

Section 5201.5: The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

The Applicant will comply if the Board of Zoning Adjustment requires special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

Section 5201.6: This section shall not be used to permit the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories, as a special exception.

The Applicant is not proposing to introduce or expand a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories, as a special exception.

IV. CONCLUSION.

For the above reasons, the Application meets the requested special exception relief.

Respectfully Submitted

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