

BURDEN OF PROOF STATEMENT FOR BOARD OF ZONING ADJUSTMENTS

I. SUMMARY RECOMMENDATION

The DCRA Office of the Zoning Administrator requires approval of a special exception by the Board of Zoning Adjustment for the construction of a proposed penthouse on top of the existing row house to accommodate access to a new roof deck. The application meets the three-pronged special exception test. The proposed penthouse structure, which among other things is needed to provide egress exit from the residence in the event of an emergency; will not impact the public good and will not impair the intent of the Zoning Regulations.

II. APPLICATION – IN – BRIEF

Applicants: Elizabeth D. Lunsford
Address: 102 9th Street SE Washington, DC 20003-1334
Lot Designation: Square# 0943 – Lot# 0801
Description of Occupancy: Single Family Dwelling (SFD)
Proposal: New penthouse to accommodate access for egress & new roof deck.
Zoning Classification: RF – 1
Historic District: Capitol Hill Historic District.
Ward / ANC District: 6 / 6B
Lot Characteristics: Existing 3-Story Row House plus below-grade basement. 4 Floors.

Relief Sought:

1. Special exception pursuant to C § 1500.4 for construction of a penthouse on a row house.

III. SITE & AREA DESCRIPTION

The subject property is a single-family dwelling located at 102 9th Street SE. The property lot is 14.75' in width and the lot depth is 41.45' at its longest point and 33.75' at its shortest. The total lot area is 562 SQFT. The current building footprint is 519 SQFT, bringing the current lot occupancy of the existing home to 92.2%. The maximum lot occupancy for this zoning district is 60%.

The home is a 3-story, masonry structure plus a below-grade basement; 4 floors total. The east side of the 100 block of 9th Street SE is lined entirely with single family dwellings that are of consistent architectural character. The home is unique in that it has a very small triangular backyard (44 SQFT) that is closed-in on all three sides by the adjoining row houses of Lot# 29, Lot# 31, and Lot# 802. While there is a perpetual right-

of-way easement that allows for walkway access from the basement to the rear alley, that easement is not being observed by the neighbor to the south at 104 9th Street SE (Lot# 29).

IV. PROJECT DESCRIPTION

The applicant currently has a building permit application on file with DCRA (B2001991) for the construction of a new roof deck. The proposed roof deck would be made accessible by the construction of a penthouse structure on top of the roof that would enclose the rooftop stair access. In this way, the Applicant would access the roof deck via a stairway leading from the 3rd floor master bedroom to the rooftop penthouse and onto the deck. While the Applicant does NOT need zoning relief for the new roof deck itself; he does need BZA relief for the proposed penthouse that would house the stair access to get onto the roof deck. The construction of a penthouse for egress access to the roof deck is subject to Special Exception approval by the BZA pursuant to C § 1500.4. If approved, the project would serve two critical needs of the Applicant. First, it would provide access to the new roof deck. Since there is no useable backyard, the enjoyment of a roof deck would be a favorable lifestyle alternative. Secondly – and most importantly – it would provide a much needed egress option for the occupants to get out of the house in the event of a fire or other emergency. Currently, the only way to get out of the house is through the front door. While the basement does have a rear entry door; the basement is being converted to a legal basement apartment and therefore the rear entry door will only be available to the basement apartment occupant; NOT the occupants of the upper three floors.

V. ANALYSIS & SPECIAL EXCEPTION TESTS

Zoning

The subject property is zoned RF – 1

In order to be granted a special exception, the applicant must show that they meet the three-part test described in the Zoning Regulations for variances and special exceptions.

1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional situations or conditions?

Yes, the property is very unique with respect to narrowness, shallowness, shape, and location. The lot is very small by row house standards; perhaps the smallest on the entire block and the building footprint is even smaller. The front façade of the home is face-on-line and therefore the front yard is technically public space and can not be meaningfully developed for private outside space. The rear backyard of the home is virtually non-existent. The backyard (if one can call it that) is approximately 44 SQFT in area and is triangular in shape. The backyard is also below-grade and is ‘locked-in’ on all three sides

by the building footprints of Lots 29, 31, & 802. Lastly, all three walls that comprise the perimeter of the backyard are structures that tower three and four stories into the air; rarely exposing it to sunlight. In summary, there is no meaningful enjoyment of the backyard that can be taken advantage of by the Applicant.

2. Does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?

Yes. The practical difficulty which is unnecessarily burdensome to the applicant is two-pronged. The first practical difficulty that is burdensome is that there is no enjoyment of private outside space for the Applicant. If the Applicant had a larger lot like his neighbors, and thus had a larger home, then he would have the benefit of more space – albeit all interior. But the Applicant does not. The Applicant is extremely disadvantaged by having not just the smallest lot and row house on the block, but also by not having an outside backyard space to enjoy.

The second practical difficulty that is burdensome on the Applicant is one of public safety. Once the legal basement apartment construction has been completed, the only egress for the occupants of the upper floors to get out will be through the front door. There is no other way to safely get out of the home in the event of a fire or other emergency.

3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zoning Regulations and Map?

Yes. The proposed relief can be granted without substantially impairing the intent, purpose, and integrity of the Zoning Regulations. The property is distinctively unique for single family homes in the RF-1 zoning district. While the majority of homes in the RF-1 district enjoy expansive backyards with 20’ rear yard setbacks, the Applicant’s does not and granting the relief in this case would not impair the intent, purpose, and integrity of the zoning regulations. There are very few examples that exist of such peculiarly shaped houses in the RF-1 district and the spirit of the zoning regulations would not be impaired by granting the proposed relief.

VI. OTHER DISTRICT AGENCY REPORTS

The property is in the Capitol Hill Historic District. The building permit application has been submitted under B2001991. The HPRB analysis of the project is pending review as of the time of this application filing. Pending BZA approval of the relief, the applicant stands ready to provide the relief to the zoning desk at DCRA to complete the permit application and have said permit issued.

VII. COMMUNITY COMMENTS

The project as proposed enjoys tremendously broad support throughout the neighborhood based on discussions with several neighbors. To date, there has been no objections raised by any of the neighbors for the proposed project.

VIII. CONCLUSIONS & RECOMMENDATIONS

The application meets the three-part special exception test. The configuration of the property creates a hardship by limiting the ways in which the Applicant can enjoy private outside space, as well as the public safety condition with respect to emergency egress. The proposed rooftop penthouse and subsequent roof deck will not impact the public good and will not impair the intent of the Zoning Regulations.

We respectfully request that the BZA grant our special exception.