

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Applicant’s Statement of Abdollah Poozesh

1709 17th Street, NW; Square 178 Lot 87

I. INTRODUCTION.

This Statement is submitted on behalf of Abdollah Poozesh (the “**Applicant**”), owner of the property located at 1709 17th Street, NW (Square 178, Lot 87) (the “**Subject Property**”). The Subject Property is currently improved with a mixed-use building (the “**Building**”). The first floor is occupied by “Picasso Gallery Custom Framing” and the upper floors consist of residential use. The Applicant is proposing to construct a small rear addition including a first floor and mezzanine (the “**Addition**”) which will increase the commercial area by approximately 500 gross square feet. The residential area is not being expanded or altered.

The Subject Property is in the MU-18 Zone. Non-residential uses have no limitations on lot occupancy, however pursuant to G § 605.2, a minimum rear yard of fifteen feet (15 ft.) shall be provided. The Applicant is proposing to extend the Addition to the rear lot line and is not providing a rear yard. The Applicant is also requesting side yard relief as the proposed addition will extend the existing nonconforming court.¹

Subtitle G § 609 states that “exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle G, Chapter 12.” Accordingly, the Applicant is requesting special exception relief pursuant to G § 1200 from the rear yard requirements (G § 605.2) and the side yard requirements (G § 606.2) of the MU-18 Zone.

¹ Courts are treated as side yards pursuant to G-606.4: “*Any portion of a building set back from the side lot line shall be considered a side yard and not a court.*”

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception approval requested pursuant to Subtitle G §§ 609, 1200 from the requirements of G §§ 605.2 and 606.2.

III. BACKGROUND.

A. Description of the Subject Property and Proposed Project.

The Subject Property is located in the MU-18 Zone and in the Dupont Circle Historic District. It is a small, narrow, rectangular lot measuring 1,105 square feet in land area with a width of only 17.5 feet. The Applicant is proposing to construct a small rear addition over an existing paved area at the rear. The Addition has been designed so it will not be visible from the front.

The space where the Addition is proposed is a small, paved area measuring approximately 250 square feet. As demonstrated on the photos, the space is very small, and is surrounded by buildings or retaining walls on all sides. The building to the south, at 1639-41 R Street, occupies 100% of its first story and the owner recently requested BZA relief to infill additional space at the rear of its lot. The surrounding retaining walls and buildings create a situation where very little light enters the space. Accordingly, the Applicant is proposing to infill this small space and increase the overall commercial space by approximately 500 square feet. The Addition will also extend the existing nonconforming court (side yard) already on the property. Accordingly, the Applicant is requesting relief for creating a nonconforming side yard measuring three feet and eleven inches (3 ft. 11 in.) and from the rear yard requirements. The Addition will not be visible from any public ways.

B. Surrounding Area.

Abutting the Subject Property to the north is a commercial building roughly the same size as the subject Building and used as a store (1711 17th Street, NW). Abutting the Subject Property

to the south is a large commercial building used as a store-restaurant (1639-1641 R Street). As mentioned above, this property was recently the subject of BZA Case No. 20042 which granted rear yard relief to infill existing paved space at the rear of that building. Abutting the Subject Property to the west is 17th Street, NW. Abutting the Subject Property to the east/rear is the side of a residential building (1635 R Street). The side of that building, which faces the rear of the Subject Property, does not have any windows—it is only a blank wall. The area is characterized by commercial and residential uses which occupy large portions of their respective lots and have very little, if any, rear yard space.

IV. THE APPLICATION SATISFIES THE GENERAL AND SPECIFIC SPECIAL EXCEPTION REQUIREMENTS.

A. Overview.

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; subject also, in this case, to the specific requirements for relief under G § 1200.

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 Subtitle X § 901.2 and Requirements of G § 1200.

Subtitle G § 609 states that the Board of Zoning Adjustment may grant special exception relief from the development standards of Subtitle G subject to any applicable conditions of Subtitle G, Chapter 12 and the General Special Exception requirements of Subtitle X, Chapter 9. The general special exception requirements are as follows: “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).

The requirements of G § 1200 mirror the general special exception requirements except that G § 1200(a) includes that the special exception be in harmony with the general purpose and intent of the MU zone, as well as the Zoning Regulations and Zoning Maps. The Application meets the requirements of G § 1200 and X § 901.2 as follows:

(a) Will be in harmony with the general purpose and intent of the MU zone, the Zoning Regulations, and Zoning Maps;

According to Subtitle G § 600.5, the purpose and intent of the MU-18 Zone is to “Permit medium-density mixed-use development. Accordingly, the granting of the special exception is in harmony with the general purpose and intent of the MU-18 Zone, as it proposes a small addition for the existing commercial use and is not proposing to increase the intensity of the use.

(b) Will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps; and

The granting of the special exception will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning maps. The Addition is small, only 22 feet in height, and the only abutting residential building does not have windows facing the Subject Property. The other abutting buildings are commercial properties, and granting the requested rear yard relief should not adversely impact the use of neighboring commercial

buildings. The Applicant is not proposing to change the use of the building or increase the intensity of the use. Trash and deliveries are currently handled through the front of the building and this process will not change.

The side yard is simply a small set back on the second story and will provide light and air than would otherwise be provided without it, as it is not even required.

(c) Is subject in each case to any applicable conditions specified in this chapter.

There are no specific requirements for side yard relief. The specific rear yard requirements are described below.

C. Rear Yard Relief: Requirements of G § 1201.

Subtitle G § 1201.1 sets forth additional conditions for relief from the rear yard requirements of G § 605.2. The Board of Zoning Adjustment may grant relief from the rear yard requirements of Subtitle G as a special exception pursuant to Subtitle X, provided:

(a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;

The Applicant is not proposing residential use.

(b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;

The Applicant is not proposing office use.

(c) In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;

The Building is parallel to the directly adjacent buildings. The Applicant is not proposing any windows on the addition. While the rear of the building will face the side of 1635 R Street, a residential building, the side facing the Subject Property has no windows.

(d) Provision shall be included for service functions, including parking and loading access and adequate loading areas; and

The Applicant is not required to provide any parking or loading. As noted above, the existing space is not used for any loading/parking or trash. The trash is currently taken out through the front door and put in a trash bin around the corner (shared by Rosebud Liquors directly adjacent). The Gallery receives a weekly delivery for supplies, which is also taken directly to the front of the Building. Accordingly, there will be no change to the existing service functions, nor will there be an increase in the need for these service functions.

(e) Upon receiving an application to waive rear yard requirements in the subject zone, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing from all relevant District of Columbia departments and agencies, including the Department of Transportation, the District of Columbia Housing Authority and, if a historic district or historic landmark is involved, the Historic Preservation Office.

The Applicant acknowledges that the Board shall submit the Application to the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing from all relevant District of Columbia departments and agencies, including the Department of Transportation, the District of Columbia Housing Authority and, if a historic district or historic landmark is involved, the Historic Preservation Office.

V. 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,

Applicant's Statement
1709 17th Street, NW

Martin P Sullivan

Martin P. Sullivan, Esq.
Sullivan & Barros, LLP

Alexandra Wilson

Alexandra M. Wilson
Sullivan & Barros, LLP